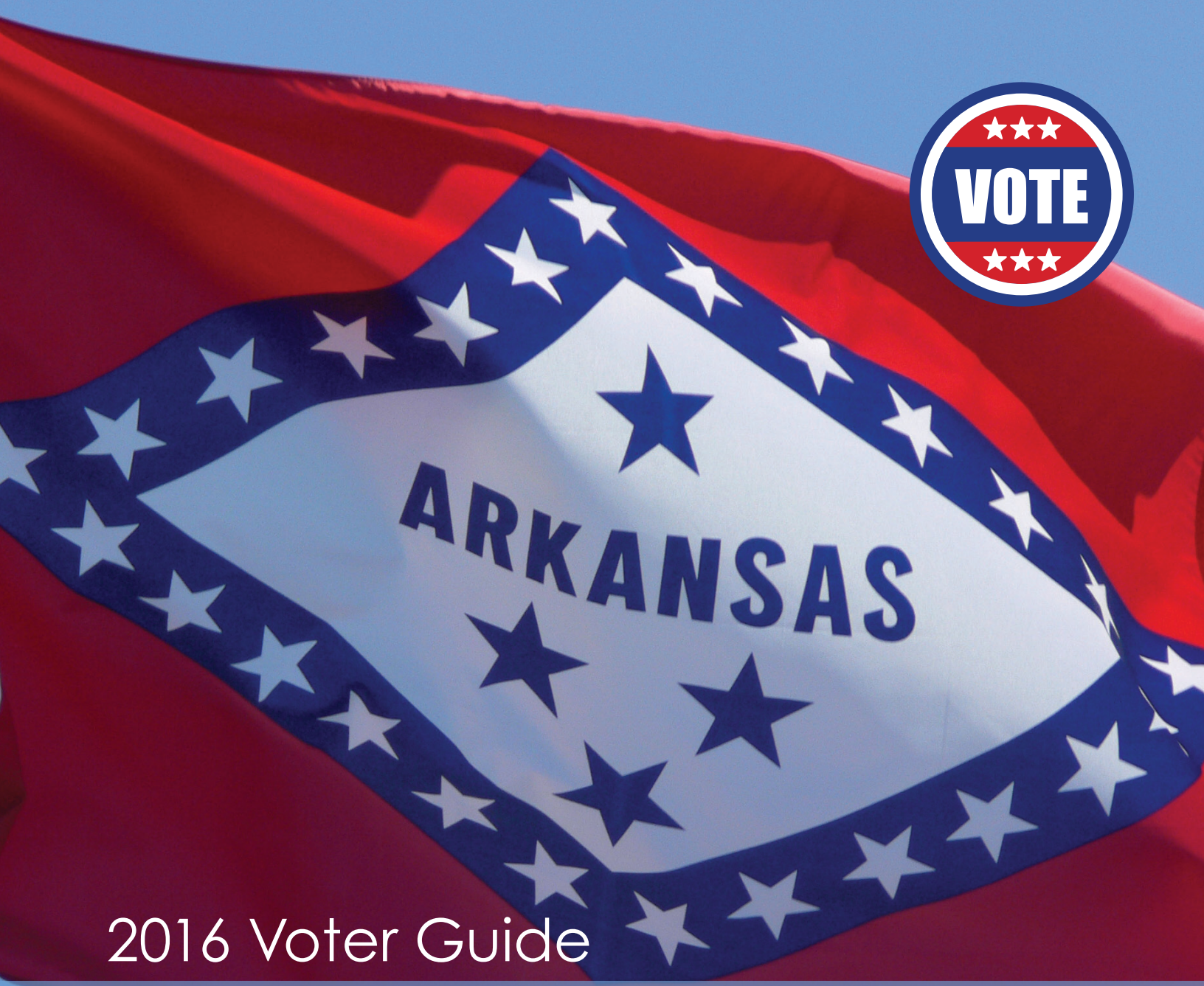


2016 Voter Guide

Arkansas Ballot Issues

General Election | Nov. 8, 2016

UofA DIVISION OF AGRICULTURE
RESEARCH & EXTENSION
University of Arkansas System

PUBLIC POLICY CENTER

This unbiased, research-based guide to the 2016 Arkansas Ballot Issues was produced by the Public Policy Center at the University of Arkansas System Division of Agriculture. For the latest ballot information visit **www.uaex.edu/ballot.**

2016 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 constitution and to state laws. You 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.

ISSUE NUMBER 1

Terms, election and eligibility of elected officials 5

ISSUE NUMBER 2

Allowing the governor to retain power and duties when absent from the state 10

ISSUE NUMBER 3

Job creation, job expansion and economic development . . .13

ISSUE NUMBER 4

Medical-injury lawsuit law . . . . . .19 REMOVED FROM BALLOT

ISSUE NUMBER 5

Authorizing three casinos . . . . . .24 REMOVED FROM BALLOT

ISSUES NUMBER 6 AND 7

General information on medical marijuana 30

(Issue 6) Medical marijuana amendment 33

(Issue 7) Medical marijuana amendment . . . . . .39 REMOVED FROM BALLOT

Issues 6 and 7 comparison chart 46

BALLOT ISSUES WORKSHEET. 49

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.**

Getting a constitutional amendment or act on the ballot is not an easy task. Legislators whittle down dozens of proposals in committee meetings to arrive at the three 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 84,859 registered voters for a constitutional amendment. This is equal to 10 percent the number of people who voted in the last governor's election. For acts (a state law), citizen groups need signatures from 67,887 registered voters. This represents 8 percent of the number of people who voted in the last governor's race.

When a citizen's group collects enough signatures to put their issue on the ballot, oftentimes the issue is challenged in court.

For the November 2016 General Election, all four issues supported by citizen groups face legal challenges. Opponents are seeking to have the four issues removed from the ballot. This means the ballot you see on Election Day may look different than it does today.

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

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

ISSUE NUMBER 1

(Referred to the people by the Arkansas General Assembly)

Terms, election and eligibility of elected officials

POPULAR NAME: Proposing an amendment to the Arkansas Constitution concerning the terms, election and eligibility of elected officials.

BALLOT TITLE: Proposing an amendment to the Arkansas Constitution concerning elected officials; providing for terms of office for certain county officials for four (4) years; providing that certain county officers shall not be appointed or elected to a civil office during their elected term; allowing a candidate for an office to be certified as elected without appearing on the ballot when he or she is the only candidate for the office at the election; and defining the term "infamous crime" for the purpose of determining the eligibility of elected officials to hold office.

What is being proposed?

This amendment asks voters to approve multiple changes to the Arkansas Constitution. If approved by voters, this amendment would:

1. Allow four-year terms for elected county officials.
2. Prevent certain elected county officials from also being appointed or elected to a civil office.
3. Allow unopposed candidates to be elected without their name appearing on the ballot; and
4. Define what "infamous crime" means in regards to who is not allowed to hold an elected position.

QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of changing the Arkansas Constitution regarding all four components proposed, including four-year terms for elected county officials, prohibitions on county officials also holding civil office, creating a process for unopposed candidates to be elected without their name appearing on the ballot and defining "infamous crime."

AGAINST: An AGAINST vote means you are not in favor of changing the Arkansas Constitution regarding one or more of the components proposed, including four-year terms for elected county officials, prohibitions on county officials also holding civil office, creating a process for unopposed candidates to be elected without their name appearing on the ballot and defining "infamous crime."

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?

- If county officials had four-year terms, they could initiate some of their own ideas and see them through, especially when it comes to technology.
- It would provide much needed ethics reforms by preventing county-level office holders from being appointed or elected to any civil office. This prevents those charged with the public trust from having a divided focus.
- It would save money on the printing of ballots to leave off unopposed candidates.
- The amendment takes all the gray area out of the definition of the phrase "infamous crime" and gives the courts and prosecutors more guidance so that crimes not fitting the definition are not prosecuted.

What do opponents say?

There has been no organized or publicized opposition to this amendment.

- In general, people may think there is more accountability for county officials if you make them run every two years.
- In other states, critics have said eliminating the name of an unopposed candidate from the ballot discourages awareness of government officials and could create a perception that unopposed candidates aren't doing their jobs or are indifferent public officials.
- Omitting a candidate from the ballot deprives voters of their right to vote for the candidate of their choice.
- There should be an overall review of the crime on an individual basis instead of an immediate bar to office. Due to the strict nature of the law, an Arkansas county sheriff was removed from office on the basis of theft of chickens at a very young age regardless that there was substantial evidence of rehabilitation and that he was elected by more than 80 percent of voters.

How did this issue get on the ballot?

Arkansas legislators voted to put House Joint Resolution 1027, or Issue 1, on the 2016 general election ballot. If approved by a majority of the House and Senate, the state legislature has 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.

Who were the main sponsors of this amendment?

Reps. Jack Ladyman of Jonesboro and David Branscum of Marshall

The following sections describe each of the four proposed changes included in this amendment.

Section 1: Providing for four-year terms for elected county officials

What would this section do?

It would change the constitution to allow the following list of elected county officials to serve four years in office, instead of the current two-year terms.

- County judge
- Sheriff
- Circuit clerk
- County clerk
- Assessor
- Coroner
- Treasurer
- County surveyor
- Tax collector

These officials can currently run for re-election and there are no limits on the number of terms they can serve.

Aren't there more elected county officials than what's listed?

Yes, there are. This amendment would not apply to justices of the peace who represent different districts of a county on governing boards known as Quorum Courts. They would continue to serve two-year terms.

You can read more about what each elected county position does in the introduction of the Arkansas County Judge's Procedural Manual published by the Association of Arkansas Counties. The manual can be found online at: www.arcounties.org/public/userfiles/files/Publications/Judges2016Manual.pdf.

If approved, when would the county officials listed previously start serving four-year terms?

County officials elected in 2016 would continue to serve two-year terms. Four-year terms would start for people elected in the 2018 general election.

Section 2 – Preventing elected county officials from holding civil office

What would this section do?

It would add to the constitution a section that says a person elected or appointed to the following county offices could not be appointed or elected to any other civil office in Arkansas at the same time.

- County judge
- Justice of the peace (also known as quorum court members)
- Sheriff
- Circuit clerk
- County clerk
- Assessor
- Coroner
- Treasurer
- County surveyor
- Tax collector

What does this amendment mean by "civil office?"

The amendment does not define "civil office." The Arkansas Constitution already says senators and representatives can't be appointed or elected to any civil office, but the constitution's writers did not explain what they meant by the phrase.

The court system has helped define the phrase's meaning over the years in rulings that found "civil office" to include:

- Positions that have the authority of the state to act
- An office created by law within one of the three branches of government (legislative, executive and judicial)

- Any officer who holds an appointment under the government
- An office created by law, with tenure, compensation and duties fixed by law
- A position that includes the taking an oath of office, the receipt of a formal commission and the giving of a bond.

Examples of state and local positions that courts determined to be a civil office include:

- Board of Workforce Education
- Board of Commissioners of a drainage improvement district
- State Board of Pardons
- School director
- Mayor
- Alderman
- Municipal judge
- City attorney
- County parks and recreation commissioner
- Deputy prosecuting attorney
- County Election Commission

Other positions may be considered a "civil office" by the courts in the future as questions or disputes arise.

Section 3: Allowing unopposed candidates to be elected without their names appearing on the ballot

What would this section do?

It would add to the constitution a section that sets up rules for what to do when only one person is running for a local or state position in a primary, general or special election.

The amendment would allow legislators to pass laws that say unopposed candidates can be elected without the

necessity of the candidate's name appearing on the ballot or, in some cases, even holding an election if there are no other offices or issues on the ballot.

For example, there wouldn't have to be an election if only one person is running in a special election for state senator and that's the only race to be decided. That person would be considered the elected senator without voters going to polling places and choosing that person.

In both situations, the candidate must be eligible to hold the office and meet the deadline to file for office.

What does Arkansas law say now about unopposed candidates?

The constitution doesn't specifically address unopposed candidates.

Article 5 of the constitution requires state senators and representatives to be chosen by "qualified electors" In addition, several state election laws require ballots to include the name of every eligible candidate.

However, one state law (A.C.A. § 7-5-207) allows most unopposed candidates for city office to be excluded from the ballot.

Section 4 – Defining "infamous crime" for determining eligibility to hold office

What would this section of the proposed constitutional amendment do?

It would define "infamous crime" in the section of the Arkansas Constitution that says who cannot serve in the state legislature or hold any other public office in the state. Under the proposed amendment, an "infamous crime" would include:

- A felony offense
- Abuse of office as defined under Arkansas law
- Tampering as defined under Arkansas law
- A misdemeanor offense involving an act of deceit, fraud or false statement, including misdemeanor offenses related to the election process

What does the constitution currently say about who can't hold office?

The Arkansas Constitution currently reads:

No person hereafter convicted of embezzlement of public money, bribery, forgery or other infamous crime shall be eligible to the General Assembly or capable of holding any office of trust or profit in this State.

How has "infamous crime" been defined over the years?

Because the Arkansas Constitution doesn't define "infamous crime," the court system has defined the phrase's meaning to include crimes involving deceit and dishonesty. Recent legal interpretations included theft or crimes that harmed the integrity of office and impact a person's ability to serve as an elected official.

Recent uses of the "infamous crime" label include a mayor who was convicted of misdemeanor theft of property after stealing campaign signs and a sheriff who was removed from office because he was convicted of stealing chickens three decades before he ran for office.

In 2013, Arkansas legislators attempted to better define the term without a constitutional amendment. They passed Act 724, which defined "infamous crimes" as:

- A felony offense
- A misdemeanor theft of property offense
- Abuse of office
- Tampering
- A misdemeanor offense in which the finder of fact was required to find, or the defendant to admit, an act of deceit, fraud or false statement.

The proposed amendment uses very similar language to this state law.

Why is a constitutional amendment needed if there is a state law defining "infamous crime"?

According to the sponsor, even with the definition under current state law, the phrase "infamous crime"

is open to interpretation. Clarifying the meaning in the constitution would provide prosecutors and the court with more guidance.

If passed, when would the legislation take effect?

Changes would go into effect January 1, 2017.

Where can I find more information?

The complete wording of this amendment can be found at www.arkleg.state.ar.us/assembly/2015/2015R/Bills/HJR1027.pdf.

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

Issue No. 1

(Popular Name)
PROPOSING AN AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING THE TERMS, ELECTION, AND ELIGIBILITY OF ELECTED OFFICIALS

(Ballot Title)
PROPOSING AN AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING ELECTED OFFICIALS; PROVIDING FOR TERMS OF OFFICE FOR CERTAIN COUNTY OFFICIALS FOR FOUR (4) YEARS; PROVIDING THAT CERTAIN COUNTY OFFICERS SHALL NOT BE APPOINTED OR ELECTED TO A CIVIL OFFICE DURING THEIR ELECTED TERM; ALLOWING A CANDIDATE FOR AN OFFICE TO BE CERTIFIED AS ELECTED WITHOUT APPEARING ON THE BALLOT WHEN HE OR SHE IS THE ONLY CANDIDATE FOR THE OFFICE AT THE ELECTION; AND DEFINING THE TERM "INFAMOUS CRIME" FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF ELECTED OFFICIALS TO HOLD OFFICE.

○ FOR

○ AGAINST

ISSUE NUMBER 2

(Referred to the people by the Arkansas General Assembly)

Allowing the governor to retain power and duties when absent from the state

POPULAR NAME: A Constitutional Amendment to allow the governor to retain his or her powers and duties when absent from the state.

BALLOT TITLE: An amendment to the Arkansas Constitution to allow the governor to retain his or her powers and duties when absent from the state.

What is being proposed?

The amendment would change the constitution to allow the governor to remain in power when traveling outside the state of Arkansas.

How did this issue get on the ballot?

Arkansas legislators voted to put Senate Joint Resolution 3, or Issue 2, on the 2016 general election ballot. If approved by a majority of the House and Senate, the state legislature has 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.

Who were the main sponsors of this amendment?

Sen. Eddie Joe Williams of Cabot

QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of changing the Arkansas Constitution to allow the governor to remain in power when leaving the state.

AGAINST: An AGAINST vote means you are not in favor of changing the Arkansas Constitution to allow the governor to remain in power when leaving the state.

What does the constitution say now?

Arkansas' Constitution describes the role and duties of the governor and who takes over when the governor is unable to lead. The office of lieutenant governor exists to provide clarity in leadership and continuity in governance, according to The Council of State Governments.

Amendment 6 to the Arkansas Constitution shifts the power of governor to lieutenant governor in cases of impeachment, removal from office, resignation, inability to discharge the powers and duties of the office, absence from the state or death.

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?

- Modern technology, such as cell phones and computers, allow the governor to stay connected and do business while out of state.
- A lieutenant governor or Senate president, who is third in line, would be prevented from signing controversial bills or taking inappropriate actions when the governor is out of Arkansas.

What do opponents say?

There has been no organized or publicized opposition to this amendment.

- In general, a person might be opposed to reducing the role of the lieutenant governor.
- In the 2002 election regarding this same issue, the then-lieutenant governor said there was anxiety over extending the governor's powers and questions about who would be in charge if the governor really was inaccessible.

If the lieutenant governor is also absent from the state, the Senate president is considered acting governor. Once the governor returns to Arkansas, he or she resumes responsibility.

What would this amendment do?

The phrase "absence from the state" would be deleted from Amendment 6 to the Arkansas Constitution, meaning the governor remains in charge when he or she leaves the state to travel to another state or country.

How often does the governor leave the state?

How often the governor leaves the state depends on the governor's schedule, issues and events at the time. According to the Governor's Office, Gov. Asa Hutchinson made four trips for economic development purposes in 2015. Those included trade missions to Asia, Europe and Cuba. He took a small number of additional trips outside the state that, for security reasons, the Governor's Office was not able to provide information about them.

What do other states do?

The United States is nearly split on whether governors keep their power when traveling. Governors in 21 states keep their authority when absent from the state.

States interpret the meaning of "absent" differently, with some courts giving the governor authority to remain in power while traveling. A few states set a time limit on how long the governor can be gone and retain power, or say the governor is in charge only when the absence is related to state business.

For example, the Alabama Constitution shifts power only when the governor has been absent

for 20 days. In New Hampshire, the governor retains power when absent from the state only while on official business.

When was the last time voters had a say on this issue?

Arkansas voters created the role of lieutenant governor in 1914 through Amendment 6, giving the position the responsibility of acting as governor if the state's top leader was absent.

In 2002, voters rejected a constitutional amendment that, among other things, would have allowed the governor to remain in charge while traveling out of state. Not much attention was given to this proposal, which shared the ballot with the governor's race and ballot proposals related to animal cruelty laws, food taxes and secret ballots. At the time, there was some concern about whether the governor could consistently be reached when traveling out of state and who would be in charge if he wasn't. The proposal also would have made the state's Supreme Court in charge of determining whether the governor was disabled and unable to lead. The court's decision would have been final if voters had approved the proposal.

If passed, when would the legislation take effect?

If approved, the legislation would go into effect 30 days after the election.

Where can I find more information?

The complete wording of this amendment can be found at www.arkleg.state.ar.us/assembly/2015/2015R/Bills/SJR3.pdf.

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

Issue No. 2

(Popular Name)
A Constitutional Amendment to Allow the Governor to Retain His or Her Powers and Duties When Absent From the State.

(Ballot Title)
AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO ALLOW THE GOVERNOR TO RETAIN HIS OR HER POWERS AND DUTIES WHEN ABSENT FROM THE STATE.

○ FOR

○ AGAINST

ISSUE NUMBER 3

(Referred to the people by the Arkansas General Assembly)

Job creation, job expansion and economic development

POPULAR NAME: An amendment to the Arkansas Constitution concerning job creation, job expansion, and economic development.

BALLOT TITLE: An amendment to the Arkansas Constitution to encourage job creation, job expansion, and economic development; removing the limitation on the principal amount of general obligation bonds that may be issued under Amendment 82 of the Arkansas Constitution to attract large economic development projects; authorizing a city, county, town, or other municipal corporation to obtain or appropriate money for any corporation, association, institution, or individual to finance economic development projects and to provide economic development services; authorizing the issuance of bonds under Amendment 62 of the Arkansas Constitution for economic development projects; authorizing the taxes that may be pledged to retire bonds issued under Amendment 62 of the Arkansas Constitution for economic development projects; removing the requirement of a public sale for bonds issued under Amendment 62 of the Arkansas Constitution for economic development projects; and authorizing

(continued on page 14)

QUICK LOOK:
What does your vote mean?

FOR: A FOR vote means you are in favor of changing the Arkansas Constitution regarding all six components proposed, including removing the 5% of state general revenue cap on bond issues for large economic development projects; allowing counties and municipalities to obtain or provide money for other entities to support economic development projects or services; clarifying the authority of counties and municipalities to issue bonds for economic development projects; allowing the use of other taxes to pay off bond debt; removing the requirement that economic development bonds may be sold only at public sale; and allowing local governments to form compacts for economic development projects.

AGAINST: An AGAINST vote means you are not in favor of changing the Arkansas Constitution regarding one or more of the components proposed, including removing the 5% of state general revenue cap on bond issues for large economic development projects; allowing counties and municipalities to obtain or provide money for other entities to support economic development projects or services; clarifying the authority of counties and municipalities to issue bonds for economic development projects; allowing the use of other taxes to pay off bond debt; removing the requirement that economic development bonds may be sold only at public sale; and allowing local governments to form compacts for economic development projects.

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 constitution includes a patchwork of economic development language and definitions, making it difficult or impossible for local communities to take full advantage of valuable job creation tools. The amendment would clean up those inconsistencies, provide additional opportunities for cities to participate in economic development opportunities and enhance the state's ability to attract large employers.
- Arkansas is at a disadvantage. Our constitution leaves us out of line with other states in this part of the country when it comes to giving communities the ability to engage in economic development efforts.
- Removing the cap on the amount of bonds the state could issue would help Arkansas compete for more large projects that could bring hundreds of new jobs to the state.
- It would regularize what many municipalities are already doing and clarify what local governments can do to offer incentives to companies.
- Being able to spend money locally on economic development would help cities and towns attract businesses and add jobs.

What do opponents say?

- It allows local governments to give away taxpayer money to a private corporation, association, institution or individual.
- There is no limit on how much state revenue may be pledged to private super projects. Theoretically, the state could approve the use of 100 percent of its general revenues or even more than 100 percent. Just one legislature could ruin the state budget and cause the need for tax increases for years to come.
- The proposal's popular name is deceptive and designed to fool uninformed voters.
- Taking money from one business for the benefit of another business is no different than welfare. It's a form of income redistribution.
- This will give you the ability to bankrupt your city. Bad decisions will come back to bite you.
- The amendment will reopen the door to sending local sales tax money from poor people to pay the salaries of chamber of commerce executives who lobby for policies contrary to the interest of poor people.

(continued from page 13)

compacts for economic development projects among cities of the first and second class, incorporated towns, school districts and counties.

What is being proposed?

This amendment asks voters to approve multiple changes to the Arkansas Constitution with the stated intent to encourage job creation, job expansion and economic development. It proposes modifications to Article 12 and Amendments 62 and 82. If approved by voters, this amendment would:

1. Remove the limitation on the amount of general obligation bonds the state may issue to pay for economic development projects. Amendment 82 currently provides that bonds cannot exceed 5 percent of state general revenues.
2. Allow a county, city, town or other municipal corporation to obtain or provide money for other entities to support economic development projects or services.
3. Clarify the authority of counties and municipalities to issue bonds for economic development projects instead of industrial development purposes, which the constitution currently authorizes but does not define.
4. Allow state legislators to authorize the use of other taxes (beyond special taxes) to pay off municipal and county bond debt.
5. Remove requirement that municipal and county bonds may be sold only at public sale.
6. Allow cities, towns, school districts and counties to form compacts for economic development projects.

How did this issue get on the ballot?

Arkansas legislators voted to put Senate Joint Resolution 16, or Issue 3, on the 2016 general election ballot. If approved by a majority of the House and Senate, the state legislature has 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.

Who were the main sponsors of this amendment?

Sen. Jon Woods and Rep. Lance Eads of Springdale

The following sections describe each of the six proposed changes included in this amendment in the order they appear within the ballot title.

Section 1: Remove the limitation on the amount of general obligation bonds the state may issue for economic development projects.

What would this section do?

Amendment 82 of the Arkansas Constitution allows the state to issue general obligation bonds to pay for infrastructure or other needs to attract large economic development projects. Voters approved Amendment 82 in 2004.

This proposal would eliminate the section of Amendment 82 that says state-issued bonds cannot exceed 5 percent of state general revenue collected during the most recent fiscal year. The proposal would also update the definition of "infrastructure" and "economic development projects" in Amendment 82 to be consistent with the language proposed in Section 2 below.

What is a general obligation bond?

In this context, a bond is a certificate of debt issued by the state. A bond is a form of government debt where the government agrees to pay back borrowed money over time at an agreed interest rate.

Bonds are typically used to pay for large capital projects, such as a road or building. Capital projects are usually expensive and difficult to fund on a pay-as-you go basis. Typically, the benefits obtained from the investment are expected to continue for the life of the bond issue or beyond.

In return for purchasing a bond, the bond holder (investor) will receive interest payments as well as the original amount of money invested on a schedule predetermined at the time the bond is sold. A "general obligation bond" is legally backed by the State of Arkansas. This means that costs associated with the bonds (administrative fees, interest payments and principle repayment) will be paid using any revenue source available to the state.

What does the current 5% cap represent in dollar terms?

The state's fiscal year just ended, and the Department of Finance and Administration reported net general revenue funds of $5.19 billion for the state. Using $5.19 billion as an example, a maximum bond issue of 5 percent would be $259.5 million.

When paying off bond debt, the state repays the total amount issued, plus the interest payments associated with it, over a specified period of time. Assuming an interest rate of 4 percent, payments on a $260 million bond issue would average $18.4 million annually if repaid over a 20-year period.

How has the state used its authority to issue bonds?

Since 2004, when voters granted the state the authority to issue bonds, Arkansas legislators have twice approved using bonds to attract a large economic development project. (Voters approved other modifications to the law in 2010).

The first time was in 2014 for the Big River Steel project in Osceola. A total of $125 million in bonds were issued to provide $70 million in infrastructure improvements, a $50 million loan and $5 million for costs associated with issuing the bonds. In 2015, legislators approved supporting a Lockheed Martin manufacturing facility in East Camden. However, that facility did not end up locating in Arkansas and the $124.4 million in bonds were never issued.

Who decides whether the state can issue these bonds?

The state legislature can approve general obligation bonds for large economic development projects during a general or special legislative session. Once approved, the Arkansas Development Finance Authority issues the bonds.

Section 2: Allow a county, city, town or other municipal corporation to obtain or provide money for other entities to support economic development projects or services.

What would this section do?

It would amend Article 12 of the Arkansas Constitution to allow a county or municipality to obtain or provide money for a private corporation, association, institution or individual to finance economic development projects or provide economic development services.

This section is in response to a recent taxpayer lawsuit in Pulaski County that challenged payments by cities to local economic development organizations and chambers of commerce. Many Arkansas cities have been making annual payments to chambers of commerce since the 1990s. A Pulaski County judge agreed that the long-time payments, which helped pay employee salaries, violated Article 12 of the state constitution's prohibition against providing money to private corporations. The proposed amendment would remove the constitutional prohibition against using county or municipal funds to support private corporations and create an exception for economic development projects or services.

What qualifies as an economic development project or service?

The proposal defines "economic development projects" as "land, buildings, furnishings, equipment, facilities, infrastructure and improvements" for development, retention and expansion of certain facilities. These include:

- Manufacturing, production and industrial facilities
- Research, technology and development facilities
- Recycling facilities
- Distribution centers
- Call centers
- Warehouse facilities
- Job training facilities
- Regional or national corporate headquarters

The proposed amendment defines "economic development services" as "planning, marketing and strategic advice and counsel" for job recruitment, development, retention and expansion. Services also include supervision, operation and contract negotiations for industrial parks or similar properties.

The proposed amendment also defines "infrastructure" related to economic development projects and services to include:

- Land acquisition
- Site preparation
- Road and highway improvements
- Rail spur, railroad and railport construction
- Water services
- Wastewater treatment
- Employee training and equipment to support it
- Environmental mitigation or reclamation

The proposal also gives the legislature the authority to change these definitions with a three-fourths vote.

Section 3: Clarify the authority of counties and municipalities to issue bonds for economic development projects instead of industrial development purposes, which the constitution currently authorizes, but does not define.

What would this section do?

It would modify parts of Amendment 62, approved by voters in 1984, to allow a county or municipality to issue bonds to pay for economic development projects, which are defined the same as listed in Section 2. It does not propose changes to sections of Amendment 62 governing local capital improvement bonds.

What types of projects does Amendment 62 currently cover?

Amendment 62 currently gives cities and counties the authority to pay for "facilities for the securing and developing of industry." The term "industry" is not defined.

Could cities and counties issue bonds without voter approval?

Counties and cities would still be required to hold an election and get voter approval before issuing bonds. They would still have the authority to levy a special property tax of up to 5 mills to pay for the bonds. A mill equals one thousandth of a dollar (.001).

However, as described below in Section 4, state legislators could authorize the use of other tax revenues to pay off economic development bonds. Amendment 62 does not limit the dollar amount of bond debt that local governments can issue.

Section 4: Allow state legislators to authorize the use of other taxes (beyond special taxes) to pay off municipal and county bonds.

What would this section do?

This proposal would modify Amendment 62 to allow counties and cities to use other taxes to pay off bond debt issued for economic development projects. It would also strike language in Amendment 62 that allows the use of special tax revenues collected in excess of the amount needed to pay off bonds to be used for additional bond issues if approved by voters.

How are costs associated with these bonds currently paid?

Cities and counties must currently use special taxes approved for the specific purpose of paying off these bonds.

How does the amendment define "other taxes?"

The phrase "other taxes" is not defined in the proposed amendment or the Arkansas Constitution.

Amendment 62 mentions "other taxes" in another section that deals with local capital improvement bonds. In that section, tax revenue to pay off bond debt can be from real or personal property taxes or other taxes. Amendment 18 also authorizes cities of a certain size to use special property taxes and other taxes provided by law to aid industry under certain conditions.

What happens if tax revenues exceed the amount needed to pay off the bonds?

Any surplus tax collections would be transferred to the county or city's general revenues. This proposed change would eliminate the authority of cities and counties to use excess tax revenues to pay for other bond issues.

Section 5: Remove requirement that municipal and county bonds may be sold only at public sale.

What would this section do?

This proposal would remove a requirement from Amendment 62 that cities and counties sell bonds at a public sale. This means that bonds could be sold publicly or privately. The process for selling the bonds would be at the discretion of the government entity.

A public sale involves publishing the upcoming sale in a newspaper that serves the community along with the details of when and how bids will be accepted. Private bond sales do not require publishing notice of the sale, and bonds are typically offered to a small number of investors.

What are the current procedures for selling bonds under Amendment 62?

Industry development bonds must currently be sold at a public sale.

Section 6: Allow cities, towns, school districts and counties to form compacts for economic development projects

What would this section do?

This proposal would modify Amendment 62 to expand the authority of cities, towns, school districts and counties to enter into a compact for economic development projects as defined in previous sections, rather just for industry development.

What is a compact?

A compact is an agreement to join together in a combined effort and share the costs and revenues associated with that effort. The governing quorum court, city council or school board of each entity that wants to enter into the compact must adopt the agreement and call for a special election for voters to approve the compacts. Amendment 62 governs this process.

If passed, when would the legislation take effect?

If approved, the legislation would go into effect 30 days after the election. This amendment could be altered or repealed only by another citizen initiative.

Where can I find more information?

The complete wording of this amendment can be found at www.arkleg.state.ar.us/assembly/2015/2015R/Bills/SJR16.pdf.

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

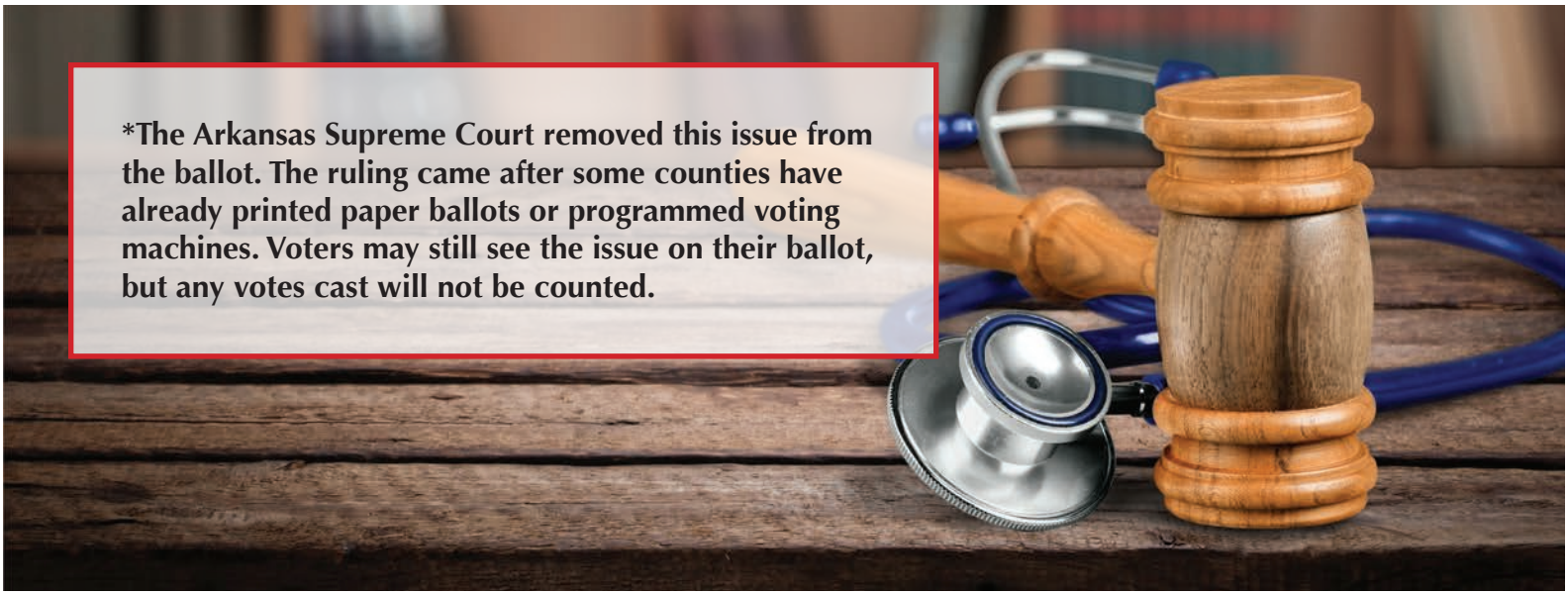
Issue No. 3

(Popular Name)
An Amendment to the Arkansas Constitution Concerning Job Creation, Job Expansion, and Economic Development.

(Ballot Title)
AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO ENCOURAGE JOB CREATION, JOB EXPANSION, AND ECONOMIC DEVELOPMENT; REMOVING THE LIMITATION ON THE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS THAT MAY BE ISSUED UNDER AMENDMENT 82 OF THE ARKANSAS CONSTITUTION TO ATTRACT LARGE ECONOMIC DEVELOPMENT PROJECTS; AUTHORIZING A CITY, COUNTY, TOWN, OR OTHER MUNICIPAL CORPORATION TO OBTAIN OR APPROPRIATE MONEY FOR ANY CORPORATION, ASSOCIATION, INSTITUTION, OR INDIVIDUAL TO FINANCE ECONOMIC DEVELOPMENT PROJECTS AND TO *PROVIDE* ECONOMIC DEVELOPMENT SERVICES; AUTHORIZING THE ISSUANCE OF BONDS UNDER AMENDMENT 62 OF THE ARKANSAS CONSTITUTION FOR ECONOMIC DEVELOPMENT PROJECTS; AUTHORIZING THE TAXES THAT MAY BE PLEDGED TO RETIRE BONDS ISSUED UNDER AMENDMENT 62 OF THE ARKANSAS CONSTITUTION FOR ECONOMIC DEVELOPMENT PROJECTS; REMOVING THE REQUIREMENT OF A PUBLIC SALE FOR BONDS ISSUED UNDER AMENDMENT 62 OF THE ARKANSAS CONSTITUTION FOR ECONOMIC DEVELOPMENT PROJECTS; AND AUTHORIZING COMPACTS FOR ECONOMIC DEVELOPMENT PROJECTS AMONG CITIES OF THE FIRST AND SECOND CLASS, INCORPORATED TOWNS, SCHOOL DISTRICTS, AND COUNTIES.

○ FOR

○ AGAINST



***The Arkansas Supreme Court removed this issue from the ballot. The ruling came after some counties have already printed paper ballots or programmed voting machines. Voters may still see the issue on their ballot, but any votes cast will not be counted.**

ISSUE NUMBER 4

(Proposed by Petition of the People)

Medical-injury lawsuit laws

REMOVED FROM BALLOT*

POPULAR NAME: An amendment to limit attorney contingency fees and non-economic damages in medical lawsuits.

BALLOT TITLE: An amendment to the Arkansas Constitution providing that the practice of contracting for or charging excessive contingency fees in the course of legal representation of a person seeking damages in an action for medical injury against a health-care provider is hereby prohibited; providing that an excessive medical-injury contingency fee is greater than thirty-three and one-third percent (33 1/3%) of the amount recovered; providing that, for the purposes of calculating the amount recovered, the figure that shall be used is the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the medical-injury claim; providing that this limitation shall apply whether the recovery is by settlement, arbitration, or judgment; providing that this limitation shall apply regardless of the age or mental capacity of the plaintiff; providing that the prohibition of excessive medical-injury fees does not apply to workers' compensation cases; providing that the General Assembly may enact legislation which enforces this prohibition, and that it may also enact legislation that determines the relative values of time payments or periodic payments and governs the consequences and penalties for attorneys who contract for or charge excessive medical-injury contingency fees; providing that the General Assembly shall enact a measure which specifies a maximum dollar amount for a non-economic damage award in any action for medical injury against a health-care provider, but that such a measure may never be smaller than two hundred and fifty thousand dollars ($250,000); providing that the General Assembly may, after such enactment, amend it by a vote of two-thirds of each house, but that no such amendment may reduce the maximum dollar amount for a non-economic damage award in any action for medical injury against any

(continued on page 20)

***being challenged in court**

QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of changing the Arkansas Constitution regarding all of the components proposed, including prohibiting attorneys from charging clients more than one-third of the amount of money received in medical-injury lawsuits and allowing the state legislature to establish a maximum dollar amount that people can receive in medical-injury lawsuits for non-economic damages, as long as the maximum is not less than $250,000.

AGAINST: An AGAINST vote means you are not in favor of changing the Arkansas Constitution regarding one or more of the components proposed, including prohibiting attorneys from charging clients more than one-third of the amount of money received in medical-injury lawsuits and allowing state legislators to establish a maximum dollar amount that people can receive in medical-injury lawsuits for non-economic damages, as long as the maximum is not less than $250,000.

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?

- Caps on non-economic damages can help lower the cost of liability insurance for nursing homes, which can result in lower costs for Medicaid.
- Arkansas ranks as one of the 10 worst states in the country for lawsuits, a problem that impacts all Arkansans and their health care. A higher rate of lawsuits raises health care costs, keeps doctors and specialists from moving to Arkansas, and compels existing ones to leave.
- This amendment, if approved, will help ensure that Arkansans are not taken advantage of by trial lawyers and that patients, doctors, nurses and medical professionals will not be taken advantage of by questionable lawsuits.

What do opponents say?

- It basically would place the value of a life at $250,000 if there are no economic damages.
- Using dishonest tactics, this amendment effectively takes away the constitutional freedom to have a trial by jury, the one mechanism Arkansans have to hold corporate nursing home owners responsible when they neglect and abuse our elderly citizens.
- It prevents juries from holding medical-care providers accountable for their negligence.

(continued from page 19)

health-care provider to less than two hundred and fifty thousand dollars ($250,000); providing that the Supreme Court shall adjust this figure for inflation or deflation on a biennial basis; and providing that this amendment does not supersede or amend the right to trial by jury.

Who is the sponsor of this amendment?

Health Care Access for Arkansans

What is being proposed?

This amendment asks voters to change the Arkansas Constitution. If approved by voters, this amendment would:

1. Amend Section 3 of Amendment 80 to the Arkansas Constitution to allow the state legislature to pass laws regarding attorney compensation and money awarded in medical-injury lawsuits.
2. Prohibit attorneys from collecting as a fee more than 1/3 of the net amount of money a client receives in a medical-injury lawsuit against a health-care professional or health-care business. Anything over this amount would be considered an "excessive contingency fee" under the law.
   - This prohibition would apply regardless of whether the medical-injury lawsuit is resolved without going to court, or a judgement by a judge or a jury.
3. Amend Section 32 of Article 5 of the Arkansas Constitution to require the state legislature to pass laws setting a maximum dollar amount per health-care provider that people can receive in medical-injury lawsuits for "non-economic damages," or reasons other than lost wages, medical expenses or other expenses incurred as a result of the injury.
   - State legislators would be required to establish in 2017 a maximum dollar amount per health-care provider that people can receive in medical-injury lawsuits for "non-economic damages." The amount must be at least $250,000.
4. Define terms such as "action for medical injury," "health-care provider," "health-care professional," "health-care business" and "medical injury," and allow state senators and representatives to further define those definitions in laws that may be passed in the future.
5. Establish that the changes to the constitution called for in this amendment do not affect the constitutional right to jury trials.
6. Require the Arkansas Supreme Court to routinely review and adjust for inflation the maximum dollar amount that a person can receive in a medical-injury lawsuit for "non-economic damages." The amount could not go below $250,000.

What does the constitution say now?

The proposed amendment would alter two sections of the Arkansas Constitution.

Section 3 of Amendment 80 to the Arkansas Constitution currently says:

> *The Supreme Court shall prescribe the rules of pleading, practice and procedure for all courts; provided these rules shall not abridge, enlarge or modify any substantive right and shall preserve the right of trial by jury as declared in this Constitution.*

The proposed change would create an exception in Section 3 of Amendment 80 and give legislators the authority to pass laws prescribing rules and procedures related to medical-injury lawsuits.

Section 32 of Article 5 of the Arkansas Constitution currently says:

> *The General Assembly shall have power to enact laws prescribing the amount of compensation to be paid by employers for injuries to or death of employees, and to whom said payment shall be made. It shall have power to provide the means, methods, and forum for adjudicating claims arising under said laws, and for securing payments of the same. Provided, that otherwise, no law shall be enacted limiting the amount to be recovered for injuries resulting in death or for injuries to persons or property; and in case of death from such injuries the right of action shall survive, and the General Assembly shall prescribe for whose benefit such action shall be prosecuted.*

The proposed change would create an exception to allow laws limiting the amount of non-economic damages that could be recovered for injuries resulting in death or for injuries to people or property.

When was the last time Arkansas voted on this issue?

Voters approved Amendment 80 to the Arkansas Constitution in 2000 by a vote of 431,137 (57.12%) in favor to 323,647 (42.88%) against. This amendment revised the court system in a number of ways, including giving the Arkansas Supreme Court the power to establish court practices and procedures.

Voters amended Section 32 of Article 5 of the state constitution in 1938 by a vote of 77,028 (62.63%) in favor to 45,966 (37.39%) against. Voters gave legislators the power to pass laws establishing the amount of compensation to be paid by employers for injuries to employees.

In 2003, state lawmakers passed the Civil Justice Reform Act to change procedures related to civil lawsuits. The changes

included revisions of rules regarding medical-injury lawsuits. Portions of the law were later found unconstitutional by the Arkansas Supreme Court, leaving the constitutional amendment process as the only way to make changes related to state compensation laws.

What is a contingency fee?

A contingency fee is an amount of money that an attorney receives for payment only if a lawsuit is won. According to the American Bar Association, a lawyer agrees to accept a fixed percentage of the final amount paid to a client. If a client wins, the lawyer's fee comes out of the money awarded to the client. If a client loses, the attorney doesn't receive any money for the work done on the case. This does not mean clients won't have to pay for costs associated with filing the lawsuit.

Lawyers and clients use this arrangement most often in cases involving personal injury or workers' compensation.

Under this proposal, what would be considered an "excessive contingency fee"?

An "excessive contingency fee" would be a payment to an attorney of more than 1/3 the amount of money a client receives in a medical-injury lawsuit, minus costs incurred with prosecution or settlement of the claim. An example of those costs include hiring expert witnesses and court filing fees. The plaintiff's medical care costs and the attorney's office-overhead costs cannot be used to calculate the contingency fees.

Is there a maximum amount that attorneys can charge clients for representing them in a medical-injury lawsuit against a health-care professional or health-care business?

There is no maximum amount of payment established by Arkansas law. The amount people pay for legal representation in Arkansas depends on the contract agreed to by the attorney and client.

What are "non-economic damages?"

The phrase "non-economic damages" is not defined in the amendment. However, in general, the phrase refers to the amount of money paid to compensate a person for the pain and suffering, inconvenience or loss of quality of life that occurs because of an injury. These losses are separate from a person's lost income or medical care expenses.

How much money could a person collect in non-economic damages under this proposal?

This amendment does not specify the maximum amount a person could collect for non-economic damages. However, it requires the Arkansas legislature to set a maximum amount of non-economic damages of at least $250,000 per health-care provider.

If passed, the amount that could be collected would depend on who is providing and billing for health-care services. For example, if a doctor is working in a hospital and causes a medical injury, the doctor and hospital could be sued independently as long as each one is both providing and billing for health-care services. However, let's say a nurse is also involved.

If the nurse is under the employment of the doctor or the hospital, he or she might be providing but not billing for health-care services. Therefore, the nurse's involvement creates no grounds for a higher-dollar judgement.

This proposal does not address the economic damages a person could receive.

How would the maximum amount of non-economic damages set by the state legislature ever change?

Legislators could change the maximum amount of non-economic damages at a future date with a two-thirds vote in each house. In addition, the Arkansas Supreme Court would be required to review the amount every two years, starting in 2018, to see if it should change because of inflation or deflation.

The adjustment would be based on the Consumer Price Index or a similar measure chosen by the court. (The Consumer Price Index is a measure of the average change over time in the price paid by people for goods and services.)

What is considered a "medical injury" under this proposal?

The proposed amendment describes "medical injury" as any harm that occurs during the course of receiving professional services from a health-care provider resulting from:

- Negligence, error or omission in the performance of such services
- Services without informed consent or in "breach of warranty" or in violation of contract ("Breach of warranty" refers to the failure of a seller to fulfill the terms of a promise or claim.)
- Failure to diagnose
- Premature abandonment of a patient
- A course of treatment
- Failure to properly maintain equipment or appliances necessary for providing services
- Otherwise arising out of or sustained in the course of such services

Who is considered a health-care provider under this proposed amendment?

The proposed amendment defines a health-care provider as a "health-care professional" or a "health-care business."

A health-care professional is further defined as an individual providing and billing for health-care services that is licensed by the state or otherwise lawfully providing professional health-care services.

The amendment specifically includes:

- Physician
- Certified registered nurse anesthetist
- Physician's assistant
- Nurse
- Optometrist
- Chiropractor
- Physical therapist
- Dentist
- Podiatrist
- Pharmacist
- Psychologist
- Veterinarian

A health-care business is also defined in this proposal as an entity providing and billing for health-care services that is licensed by the state or otherwise lawfully providing health-care services.

The amendment specifically includes an owner, officer, employee or agent of a:

- Hospital
- Nursing home
- Community mental health center
- Ambulatory surgical treatment center
- Birthing center
- Intellectual disability institutional rehabilitation center
- Outpatient diagnostic center
- Nonresidential substitution-based treatment center for opiate addiction
- Recuperation center
- Rehabilitation facility
- Hospice
- Clinic
- Home health-care agency

If passed, when would the legislation take effect?

The amendment would go into effect Jan. 1, 2017. This amendment could be altered or repealed only by another citizen initiative.

Where can I find more information?

The complete wording of this proposed amendment can be found at the bottom of an Attorney General's Opinion at http://ag.arkansas.gov/opinions/docs/2016-038.pdf.

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

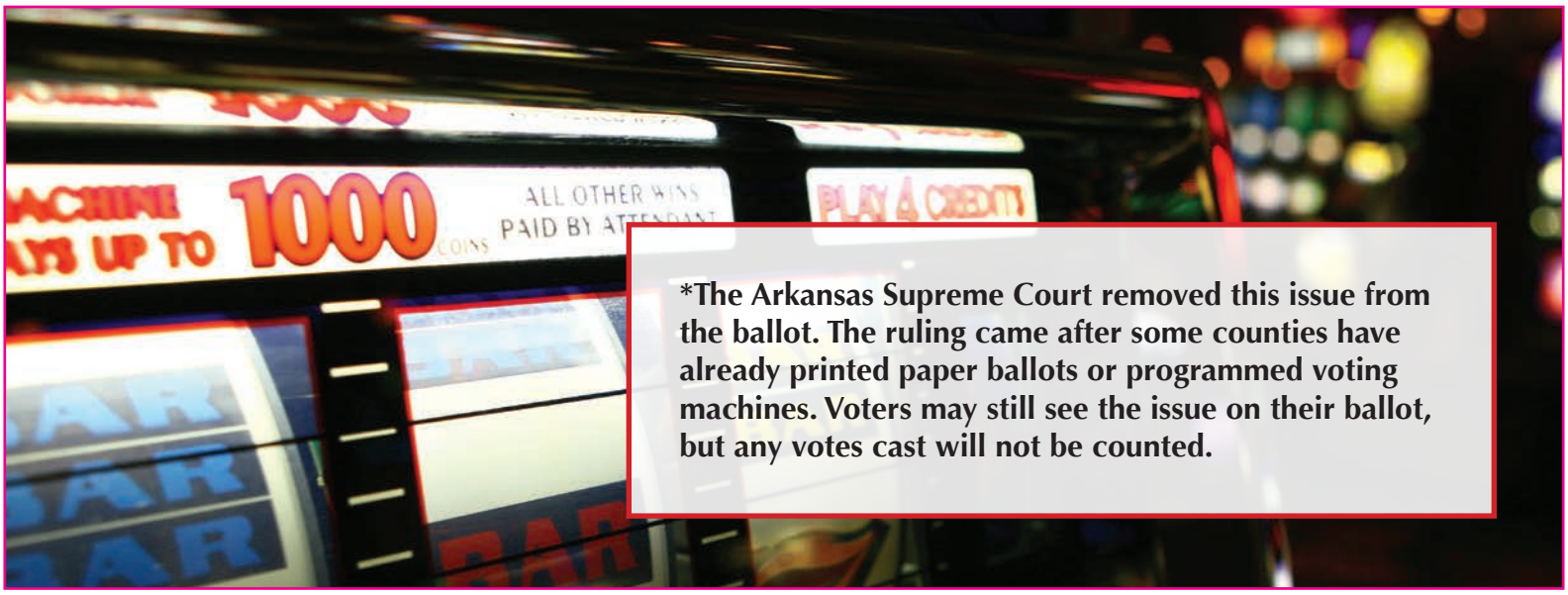
Issue No. 4

(Popular Name)
An Amendment to Limit Attorney Contingency Fees and Non-Economic Damages in Medical Lawsuits

(Ballot Title)
An amendment to the Arkansas constitution providing that the practice of contracting for or charging excessive contingency fees in the course of legal representation of any person seeking damages in an action for medical injury against a health-care provider is hereby prohibited; providing that an excessive medical-injury contingency fee is greater than thirty-three and one-third percent (33 1/3%) of the amount recovered; providing that, for the purposes of calculating the amount recovered, the figure that shall be used is the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the medical-injury claim; providing that this limitation shall apply whether the recovery is by settlement, arbitration, or judgment; providing that this limitation shall apply regardless of the age or mental capacity of the plaintiff; providing that the prohibition of excessive medical-injury fees does not apply to workers' compensation cases; providing that the General Assembly may enact legislation which enforces this prohibition, and that it may also enact legislation that determines the relative values of time payments or periodic payments and governs the consequences and penalties for attorneys who contract for or charge excessive medical-injury contingency fees; providing that the general assembly shall enact a measure which specifies a maximum dollar amount for a non-economic damage award in any action for medical injury against a health-care provider, but that such a measure may never be smaller than two hundred and fifty thousand dollars ($250,000); providing that the General Assembly may, after such enactment, amend it by a vote of two-thirds of each house, but that no such amendment may reduce the maximum dollar amount for a non-economic damage award in any action for medical injury against any health-care provider to less than two hundred and fifty thousand dollars ($250,000); providing that the Supreme Court shall adjust this figure for inflation or deflation on a biennial basis; and providing that this amendment does not supersede or amend the right to trial by jury.

○ FOR

○ AGAINST



***The Arkansas Supreme Court removed this issue from the ballot. The ruling came after some counties have already printed paper ballots or programmed voting machines. Voters may still see the issue on their ballot, but any votes cast will not be counted.**

ISSUE NUMBER 5

(Proposed by Petition of the People)

***being challenged in court**

Authorizing three casinos

POPULAR NAME: An amendment to allow three casinos to operate in Arkansas, one each in the following counties: Boone County, operated by Arkansas Gaming and Resorts, LLC; Miller County, operated by Miller County Gaming, LLC; and Washington County, operated by Washington County Gaming, LLC.

REMOVED FROM BALLOT*

BALLOT TITLE: An amendment to the Arkansas Constitution authorizing three casinos to operate in Arkansas, one in Boone County, Arkansas, operated by Arkansas Gaming and Resorts, LLC, an Arkansas Limited Liability Company, one in Miller County, Arkansas, operated by Miller County Gaming, LLC, an Arkansas Limited Liability Company, and one in Washington County, Arkansas, operated by Washington County Gaming, LLC, an Arkansas Limited Liability Company, all being subject to the laws enacted by the General Assembly in accord with this amendment and regulations promulgated by the Arkansas Gaming Commission in accord with laws enacted by the General Assembly; defining casino gaming and gaming as dealing, operating, carrying on, conducting, maintaining, or exposing for play any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit, or any representative value, as well as accepting wagers on sporting events or other events, including, without limiting the generality of the foregoing, any game, device, or type of wagering permitted at a casino operated within any one or more of the states of Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Tennessee, or Texas as of November 8, 2016, or as subsequently permitted thereafter; creating the Arkansas Gaming Commission to regulate casinos in accord with laws enacted by the General Assembly,

(continued on page 25)

QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of authorizing three casino gaming establishments, one each to be located in Boone, Miller and Washington counties.

AGAINST: An AGAINST vote means you are not in favor of authorizing three casino gaming establishments, one each to be located in Boone, Miller and Washington counties.

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?

- Unless voters pass this amendment, many of these casino jobs will continue to go to our neighboring states and it will be their citizens, not ours, who will benefit from hundreds of millions of dollars in annual gaming tax revenue in the form of new roads, better schools and lower taxes.
- Arkansas already has casino gaming. This amendment would bring needed competition to the marketplace, not only giving Arkansans more choices in gaming, but also new entertainment, hotel and restaurant options that will help drive tourism and economic growth.
- Our intention has been for the casinos authorized by this amendment to be operated by well-established, credible firms in the gaming industry.

What do opponents say?

- Casinos don't lift the economy and the tax benefit is very small relative to the state budget.
- It just opens more roads for people to harm themselves and for people to harm people around them like their spouses and their children. It's just not worth it.
- The proposed amendment dictates specific locations for casino gambling that prevent the people who live there from having control over what type of community they will have in the future.
- It's bad government to write private monopolies with specific companies into the state constitution.

(continued from page 24)

with the Arkansas Gaming Commission comprised of five (5) commissioners, each appointed by the governor for staggered 5-year terms; providing for the General Assembly to appropriate monies to or for the use of the Arkansas Gaming Commission; requiring each casino to pay to the Arkansas State Treasury as general revenues a net casino gaming receipts tax equal to eighteen percent (18%) of its annual net casino gaming receipts; requiring each casino to pay to the county in which the casino is located a net casino gaming receipts tax equal to one-half of one percent (0.5%) of its annual net casino gaming receipts; requiring each casino to pay to the city or town in which the casino is located a net casino gaming receipts tax equal to one and one-half percent (l.5%) of its annual net casino gaming receipts; defining annual net casino gaming receipts as gross receipts for a 12-month period from casino gaming less amounts paid out or reserved as winnings to casino patrons for that 12-month period; subjecting each casino to the same income, property, sales, use, employment and other taxation as any for-profit business located in the county and city or town in which the casino is located, except that the Arkansas Gross Receipts Act of 1941 and local gross receipts taxes shall not apply to casino gaming receipts; allowing a casino to operate any day for any portion or all of any day; allowing the selling or complimentary serving of alcoholic beverages in casinos during all hours the casino operates but otherwise subject to all applicable Arkansas laws involving the distribution and sale of alcohol; permitting the shipment into Boone, Miller, and Washington counties in Arkansas of gambling devices shipped and delivered in accordance with applicable federal law (15 USC§§ 1171-1178 and amendments and replacements thereto); rendering the provisions of this amendment severable; declaring inapplicable all constitutional provisions and laws to the extent they conflict with this amendment, but not otherwise repealing, superseding, amending, or otherwise affecting Amendment 84 (bingo or raffles) or Amendment 87 (state lottery) to the Arkansas Constitution, or Arkansas Act 1151 of 2005 (Electronic Games of Skill).

Who is the sponsor of this amendment?

Arkansas Wins in 2016/Arkansas Winning Initiative

What is being proposed?

This amendment asks voters to change the Arkansas Constitution to authorize three casinos to operate in the state. If approved by voters, this amendment would:

1. Authorize three casinos to operate in Arkansas, one each in Boone, Miller and Washington counties.
2. Identify the companies that will operate the three casinos.
3. Define what type of casino gaming may occur at the three casinos.
4. Create the Arkansas Gaming Commission to regulate the casinos.
5. Establish tax rates on casino gaming net receipts that casinos must pay the state and local governments.
6. Determine what other taxes would be applicable to the casinos.
7. Allow the casinos to operate any day, all day.
8. Allow the casinos to serve alcohol during all hours they are open.
9. Permit the shipment of gaming devices to the casinos.
10. Establish that the amendment would not affect Amendment 84 rules for bingo or raffles, Amendment 87 rules for the state lottery or Arkansas Code 23-113-201 that allows for electronic games of skill at race tracks.

When was the last time Arkansans voted on this issue?

Voters in 1984 rejected a proposed constitutional amendment to allow casino gambling in Garland County by a vote of 236,625 (29.64%) in favor to 561,825 (70.36%) against. Then in 1996, voters statewide rejected a proposed constitutional amendment that would have established a statewide lottery and allowed voters in Hot Springs to authorize casino gambling in their county by a vote of 333,297 (38.88%) in favor to 523,986 523,986 (61.12%) against.

Voters in 2000 rejected a proposed constitutional amendment to allow a corporation to own and operate six casino establishments in Sebastian, Pulaski, Garland, Miller, Crittenden and Boone counties. The proposal would also have established a state lottery and permitted charitable bingo games and raffles. Voters rejected the amendment by a vote of 309,482 (36.24%) in favor to 544,550 (63.76%) against.

In 2012, the Arkansas Supreme Court struck down a proposed casino ballot measure that would have authorized casinos in four counties after determining the ballot title didn't tell voters that the amendment could affect electronic games of skill at two Arkansas race tracks. The court also ruled that the voter signatures gathered were invalid because the measure's backer changed the wording of the proposal after gathering the signatures. The issue appeared on paper ballots in some counties because the ballots were printed before the court ruling, but votes were not counted.

Aren't casinos already allowed in Arkansas?

There are multiple state laws that, combined, prohibit casinos. Arkansas Code 5-66-103 makes keeping of a "gambling house" a felony. Arkansas Code 5-66-104 prohibits gaming devices and Arkansas Code 5-66-106 says betting on any machines prohibited under the previous law is illegal.

However, in 2005, Arkansas legislators passed a bill that allows race tracks to conduct wagering on "electronic games of skills." The law, Arkansas Code 23-113-201, requires the issue be put before the voters of the city, town or county where the race track is located.

Voters in West Memphis and Hot Springs subsequently approved electronic games of skill at race tracks in their cities. According to the law, in order to constitute an electronic game of skill, the game must not be completely controlled by chance alone. Many gaming websites include these two locations in lists of casinos.

Arkansas Code 23-113-201 would not apply to casinos proposed in Issue 5.

What type of gaming would be allowed at the three casinos?

The proposed amendment defines "casino gaming" as "to deal, operate, carry on, conduct, maintain, or expose for play any game played with cards, dice, equipment, or

any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit or any representative value, as well as to accept wagers on sporting events or other events."

Casino gaming would also include any game, device or type of wagering permitted at a casino operated in Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Tennessee, or Texas.

What happens if the majority of voters in Boone, Miller and Washington counties vote against this proposal?

The outcome of the proposed amendment depends on if it receives a majority of votes statewide. Voters in Boone, Miller and Washington counties could reject the proposal, but the issue could pass statewide, and the casinos would be allowed to operate.

If approved, where would the casinos be located?

Sponsors have not publicly identified where the three casinos would be built in Boone, Miller and Washington counties.

If approved, who would operate the casinos?

Arkansas Wins in 2016 announced an agreement with Cherokee Nation Entertainment to operate a casino proposed for Washington County in Northwest Arkansas. The company, Washington County Gaming, LLC, will be operated by the Cherokee Nation, which owns and operates nine casinos in Oklahoma.

The amendment's supporter has not publicly identified the operators of Arkansas Gaming and Resorts, LLC, in Boone County or Miller County Gaming, LLC, in Miller County. All three companies were registered with the state by Dianne Dalton, one of the campaign supporters.

What is the purpose of the Arkansas Gaming Commission?

If passed, this amendment would create the Arkansas Gaming Commission. The five commission members would be appointed by the governor no later than July 31, 2017. The commission would have the authority to regulate the casinos and administer any laws passed by the legislature related to casino operations.

What are potential economic benefits and costs of casino gaming?

Economic benefits include employment and income generated from spending at the casino and nonlocal visitor spending at local businesses, minus the "displacement effects" of local resident spending at the casinos.

"Nonlocal visitor spending" is money spent by people who come to the area for casino gaming, but also spend money at local businesses. The "displacement effect" is what happens when local residents spend money at casino gaming establishments that they would have otherwise spent on other goods or services in their community.

Economic costs are the social behaviors that impose measurable costs on society, such as increased crime, bankruptcies and problem or pathological gambling.

Net Economic Benefits = Economic Benefits – Social Costs

What are the effects of casinos on public revenue?

The state, county and city/town would receive the following tax revenue from the casino's annual net gaming receipts (gross receipts less winnings paid to patrons):

- State of Arkansas = 18%
- County in which casino is located = 0.5%
- City/town in which casino is located = 1.5%

The casinos would be exempt from paying any state and related local gross receipts taxes on casino gaming receipts other than what is listed above. However, the casinos would be subject to the same income, property, sales, use, employment or other taxation or assessments as other for-profit businesses. The casino's income tax would be based on net income (gross receipts less winnings paid to patrons and less gaming receipts taxes paid). No additional state or local taxes, fees or assessments could be imposed on the casinos.

Some of the public revenue generated by the casinos may be the result of revenue lost from less spending in other businesses. Therefore, the net new revenue could be calculated as:

Net New Public Revenue = Casino Tax Revenue – Revenue Lost From Other Sources

There are also public costs associated with casino gaming including implementing and enforcing the rules and regulations and expanding and maintaining public infrastructure and services to meet the demand created by casinos. Therefore, these costs need to be considered when calculating the net public benefit from casinos. This may be expressed as:

Net Public Benefit = Net New Public Revenue – Public Costs

The economic and social benefits and costs of casino gaming vary greatly among communities and between state and local governments, with local governments often bearing many of the costs. This is one reason that the National Gambling Impact Study Commission recommended in their 1999 report that "local government agencies should make careful and informed decisions about whether to permit gambling into their respective jurisdictions" (National Gambling Impact Study Commission, 1999).

Who pays the casino gaming taxes?

Many studies have been undertaken to determine who spends money at casinos and, therefore, indirectly pay the casino taxes. An analysis of the many studies, based on site specific data, found that casino tax incidence is regressive and borne disproportionately by lower-income, less educated households (Mallach, 2010).

How would winnings be taxed?

Gambling winnings are fully taxable and must be reported on state and federal income tax returns.

If passed, would this amendment affect Oaklawn in Hot Springs and Southland in Memphis?

The proposed amendment would not alter the law that allows for gaming at Oaklawn and Southland.

If passed, when would the legislation take effect?

The legislation would go into effect 30 days after the election. This amendment could be altered or repealed only by another citizen initiative.

Where can I find more information?

The complete wording of this amendment can be found at http://ag.arkansas.gov/opinions/docs/2016-058.pdf.

References

Mallach, Alan (2010.) Economic and Social Impact of Introducing Casino Gambling: A Review and Assessment of the Literature. Discussion Papers – Community Affairs Department, Federal Reserve Bank of Philadelphia.

National Gambling Impact Study Commission (1999). National Impact Study Commission Report.

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

Issue No. 5

(Popular Name)
AN AMENDMENT TO ALLOW THREE CASINOS TO OPERATE IN ARKANSAS, ONE EACH IN THE FOLLOWING COUNTIES: BOONE COUNTY, OPERATED BY ARKANSAS GAMING AND RESORTS, LLC; MILLER COUNTY, OPERATED BY MILLER COUNTY GAMING, LLC; AND WASHINGTON COUNTY, OPERATED BY WASHINGTON COUNTY GAMING, LLC

(Ballot Title)
An amendment to the Arkansas Constitution authorizing three casinos to operate in Arkansas, one in Boone County, Arkansas, operated by Arkansas Gaming and resorts, LLC, an Arkansas Limited Liability Company, one in Miller County, Arkansas, operated by Miller County Gaming, LLC, an Arkansas Limited Liability Company, and one in Washington County, Arkansas, operated by Washington County Gaming, LLC, an Arkansas Limited Liability Company, all being subject to the laws enacted by the General Assembly in accord with this amendment and regulations promulgated by the Arkansas Gaming Commission in accord with laws enacted by the General Assembly; defining casino gaming and gaming as dealing, operating, carrying on, conducting, maintaining, or exposing for play any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit, or any representative value, as well as accepting wagers on sporting events or other events, including, without limiting the generality of the foregoing, any game, device, or type of wagering permitted at a casino operated within any one or more of the states of Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Tennessee, or Texas as of November 8, 2016, or as subsequently permitted thereafter; creating the Arkansas Gaming Commission to regulate casinos in accord with laws enacted by the General Assembly, with the Arkansas Gaming Commission comprised of five (5) commissioners, each appointed by the governor for staggered 5-year terms; providing for the General Assembly to appropriate monies to or for the use of the Arkansas Gaming Commission; requiring each casino to pay to the Arkansas State Treasury as general revenues a net casino gaming receipts tax equal to eighteen percent (18%) of its annual net casino gaming receipts; requiring each casino to pay to the county in which the casino is located a net casino gaming receipts tax equal to one-half of one percent (0.5%) of its annual net casino gaming receipts; requiring each casino to pay to the city or town in which the casino is located a net casino gaming receipts tax equal to one and one-half percent (1.5%) of its annual net casino gaming receipts; defining annual net casino gaming receipts as gross receipts for a 12-month period from casino gaming less amounts paid out or reserved as winnings to casino patrons for that 12-month period; subjecting each casino to the same income, property, sales, use, employment and other taxation as any for-profit business located in the county and city or town in which the casino is located, except that the Arkansas Gross Receipts Act of 1941 and local gross receipts taxes shall not apply to casino gaming receipts; allowing a casino to operate any day for any portion or all of any day; allowing the selling or complimentary serving of alcoholic beverages in casinos during all hours the casino operates but otherwise subject to all applicable Arkansas laws involving the distribution and sale of alcohol; permitting the shipment into Boone, Miller, and Washington counties in Arkansas of gambling devices shipped and delivered in accordance with applicable federal law (15 USC§§ 1171-1178 and amendments and replacements thereto); rendering the provisions of this amendment severable; declaring inapplicable all constitutional provisions and laws to the extent they conflict with this amendment, but not otherwise repealing, superseding, amending, or otherwise affecting Amendment 84 (bingo or raffles) or Amendment 87 (state lottery) to the Arkansas Constitution, or Arkansas Act 1151 of 2005 (electronic games of skill).

○ FOR

○ AGAINST

GENERAL INFORMATION

Medical Marijuana

Voters will see two different proposals on the ballot this year regarding making legal the growing, distribution, selling and use of marijuana for medical purposes legal in the state.

The proposals are The Arkansas Medical Marijuana Amendment (Issue 6) and The Arkansas Medical Cannabis Act (Issue 7).

Because both issues pertain to medical marijuana, general information that applies to both ballot issues will be covered in this introduction.

Terminology

The two proposals use different names – "marijuana" and "cannabis" – to refer to the same drug. They also use two different names for the location where it could be grown and distributed – "dispensary" and "nonprofit cannabis care center." The terms will be used interchangeably in this voter guide.

General Questions Regarding Issue 6 and Issue 7

What is the difference between an act and a constitutional amendment?

An act is a state law, which can be changed at a later date by state senators and representatives in a legislative session. Any changes by the legislature to an act passed by the public would not require another vote of the people.

A constitutional amendment amends the state's constitution and typically can't be changed without another vote of the people. Some constitutional amendments include permission for legislators to make certain changes at a later date without another vote of the people. The Arkansas Medical Marijuana Amendment (Issue 6) would permit legislators to make changes without another vote of the people, but it specifically prohibits legislators from changing the legality of medical marijuana. Consequently, if The Arkansas Medical Marijuana Amendment passes, it could be repealed only by another citizen initiative to amend the constitution.

What happens if both the proposed act and constitutional amendment pass?

In Arkansas, ballot issues require a majority of the votes cast to be approved. Article 5 of the Arkansas Constitution says that if conflicting measures are approved, the one receiving the highest number of "for" votes will become law. However, supporters have questioned whether

a constitutional amendment would take precedent over a state law. The determination of what would happen if both proposals pass would likely be made by the courts.

What is marijuana?

Marijuana is a mix of dried, shredded leaves, stems, seeds and flowers of the cannabis plant. Delta-9-trahydrocannibinol, or THC, is the main psychoactive ingredient in marijuana.

Marijuana is classified as a Schedule 1 drug according to the federal Controlled Substances Act of 1970. Schedule 1 drugs are defined as substances with high potential for abuse, have no currently accepted medical use in treatment in the United States, and there is a lack of accepted safety for use of the drug under medical supervision. Other examples of Schedule 1 drugs are heroin and LSD.

Arkansas has had legal restrictions at the state level on the use of marijuana since 1923.

When was the last time Arkansans voted on this issue?

Arkansas voters rejected The Arkansas Medical Marijuana Act in November 2012 by a vote of 507,757 (48.56%) in favor and 537,898 against (51.44%).

Does marijuana have therapeutic properties?

Marijuana's potential for therapeutic or harmful effects is the subject of much debate.

Although there are laboratory studies that show that oral THC (the active ingredient in marijuana) and smoked marijuana may reduce pain and nausea, the types of studies needed by the federal government to determine if smoked marijuana can be effective and safe for treating those conditions have not yet been conducted.

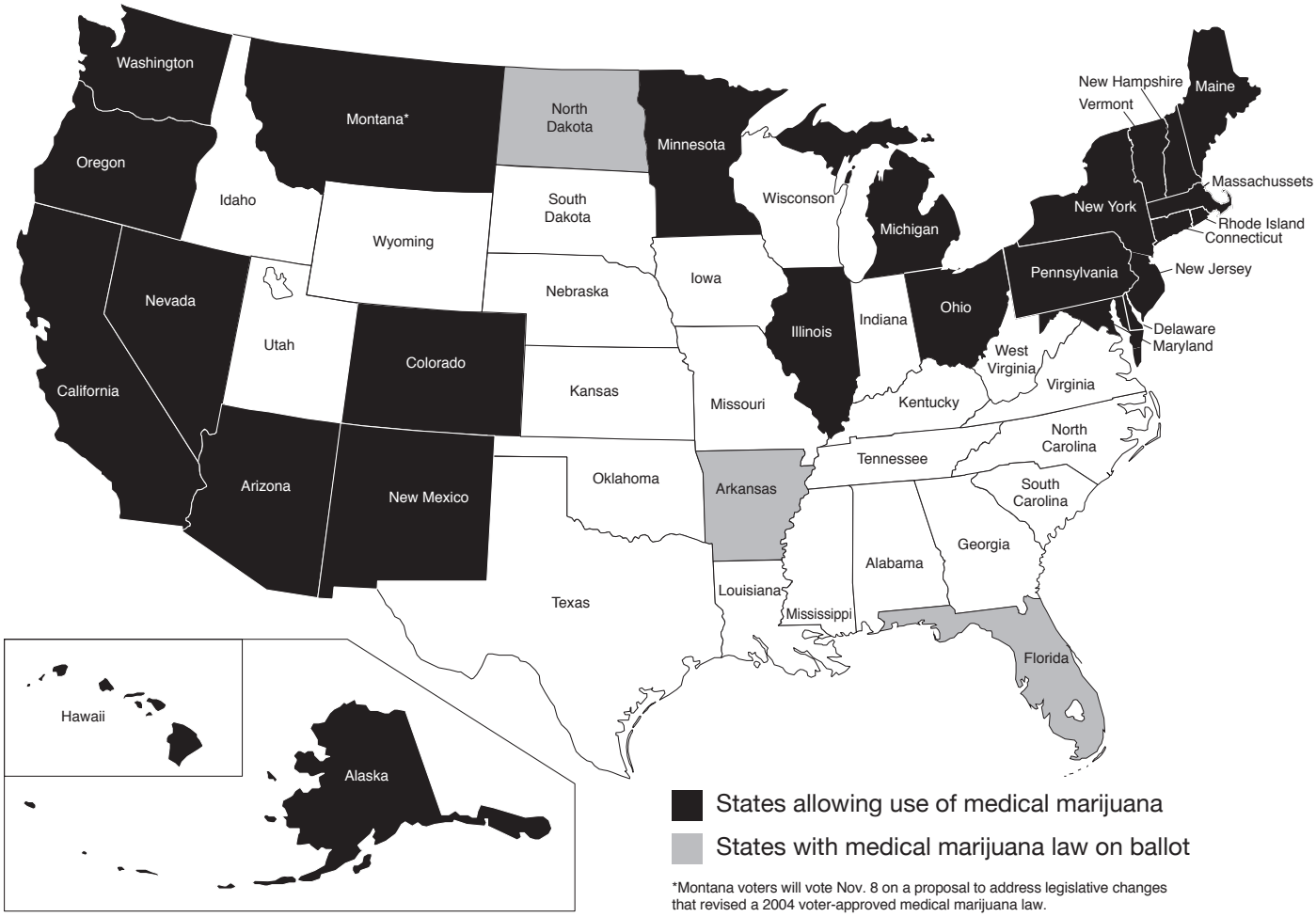
The Food and Drug Administration has not recognized or approved the marijuana plant as medicine, but scientific study of the chemical compounds in marijuana called cannabinoids has led to three FDA-approved medications that contain cannabinoid chemicals in medicinal form. These medications are prescribed to increase appetite in people who have AIDS and to reduce chemotherapy-induced nausea. They may also decrease pain, inflammation and muscle control problems.

Does marijuana have harmful properties?

Studies have shown that marijuana smoke includes carcinogens known to cause cancer and can cause respiratory issues such as bronchitis. Studies suggest that long-term moderate smoking of marijuana does not impair respiratory function but that heavy use may. Various health organizations have stated there is a need for more research to determine cancer risks associated with marijuana smoke. A 2006 American study found that smoking marijuana did not increase the risk of developing lung cancer,

after accounting for participants' tobacco use, while a smaller New Zealand study in 2008 did claim a cancer link for marijuana users. Marijuana does not have to be smoked but can be vaporized or ingested orally.

Studies have also shown that marijuana can temporarily impair memory and other cognitive processes, and turn into an addiction. Marijuana can be, in some cases, psychologically addictive and there is debate about whether it can become physically addictive.



*Montana voters will vote Nov. 8 on a proposal to address legislative changes that revised a 2004 voter-approved medical marijuana law.

What states have medical marijuana laws?
California was the first state to pass a medical marijuana law in 1996. Since then, 24 other states have passed some form of law allowing the use of medical marijuana. The 24 states are Alaska, Arizona, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont and Washington. The District of Columbia also has a medical marijuana law.

If passed, could I still be arrested for medical marijuana in Arkansas?
The proposed Arkansas laws offer legal protection against arrest or prosecution for cardholders, caregivers, doctors and employees of dispensaries and testing labs. However, people could be arrested and prosecuted if they don't have the proper identification and licenses or do not follow the laws and regulations that would be established for growing, distributing, selling, possessing or using marijuana.

Even if this proposal becomes state law, marijuana would remain illegal under federal law. The United States Supreme Court has ruled that the federal government can regulate and criminalize all uses of marijuana. In 2005, in Gonzales v. Raich, the Supreme Court ruled that medical marijuana growers and distributors were violating federal law even if what they were doing was legal under state law. This opened them up for federal prosecution.

ISSUE NUMBER 6

(Proposed by Petition of the People)

Medical marijuana amendment

POPULAR NAME: The Arkansas Medical Marijuana Amendment of 2016

BALLOT TITLE: An amendment to the Arkansas Constitution making the medical use of marijuana legal under state law, but acknowledging that marijuana use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation, acquisition, and distribution of marijuana for qualifying patients through licensed medical marijuana dispensaries and cultivation facilities and granting those dispensaries and facilities limited immunity; providing that qualifying patients, as well as dispensary and cultivation facility agents, shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with the patients' medical use of marijuana; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician licensed in the state that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the Department of Health to establish rules related to the processing of applications for registry identification cards and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of marijuana; directing the Alcoholic Beverage Control Division to establish rules related to the operations of dispensaries and cultivation facilities; establishing a Medical Marijuana Commission of five members, two appointed by the president pro tempore of the Senate, two appointed by the speaker of the House of Representatives, and one appointed by the governor; providing that the Medical

(continued on page 34)

∗being challenged in court

QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of changing the Arkansas Constitution to make the medical use of marijuana legal under Arkansas law and establishing a system for the cultivation, acquisition and distribution of marijuana for medical purposes.

AGAINST: An AGAINST vote means you are not in favor changing the Arkansas Constitution to make the medical use of marijuana legal under Arkansas law and establishing a system for the cultivation, acquisition and distribution of marijuana for medical purposes.

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?

- Polls indicate that over 80 percent of Arkansans support patients being able to use medical marijuana when prescribed by a physician.
- This proposal doesn't include a provision allowing patients to grow their own marijuana if they don't live near a dispensary. It's a tightly controlled system.
- Many people know somebody who has been sick and used marijuana to help with their suffering.
- New jobs would be created – somebody has to build the dispensaries, work in them and supply them with goods.
- This proposal guarantees that different people own the dispensaries and growing facilities. A for-profit system is necessary for anyone to be able to afford starting a dispensary or cultivation facility.

What do opponents say?

- The Arkansas Department of Health says there are no scientific evaluations of the dosage and safety of marijuana varieties and preparations. Safe, effective and reproducible treatment options will only come from clinical studies of defined preparations with known composition. A move to simply make marijuana legal in medical circumstances will not accomplish this.
- There are Food and Drug Administration-approved treatment alternatives for all the medical conditions proposed to be treated with marijuana.
- This is a brazen move funded by the alcohol industry to build an Arkansas marijuana monopoly.
- It's written so broadly that virtually any healthy adult with pain or nausea will be able to finagle a way to use marijuana. There won't be any prescriptions from a doctor – just a note. No pharmacies will dispense it, and no one will regulate the content or dosage.
- It will create a hardship for business owners to maintain a drug-free workplace due to the numerous safe guards built into the amendment that protect the user interests over the interests of the employer.

(continued from page 33)

Marijuana Commission shall administer and regulate the licensing of dispensaries and cultivation facilities; providing that there shall be at least 20 but not more than 40 dispensary licenses issued and that there shall be at least four but not more than eight cultivation facility licenses issued; setting initial maximum application fees for dispensaries and cultivation facilities; establishing qualifications for registry identification cards; establishing standards to ensure that qualifying patient registration information is treated as confidential; directing the Department of Health to provide the General Assembly annual quantitative reports about the medical marijuana program; setting certain limitations on the use of medical marijuana by qualifying patients; establishing an affirmative defense for the medical use of marijuana; establishing registration and operation requirements for dispensaries and cultivation facilities; setting limits on the amount of marijuana a dispensary may cultivate and the amount of marijuana a dispensary may dispense to a qualifying patient; providing that the Medical Marijuana Commission shall determine the amount of marijuana a cultivation facility may cultivate; prohibiting certain conduct by and imposing certain conditions and requirements on physicians, dispensaries, dispensary and cultivation facility agents, and qualifying patients; establishing a list of felony offenses which preclude certain types of participation in the medical marijuana program; providing that the sale of usable marijuana is subject to all state and local sales taxes; providing that the state sales tax revenue shall be distributed 5% to the Department of Health, 2% to the Alcoholic Beverage Control Administration Division, 2% to the Alcoholic Beverage Control Enforcement Division, 1% to the Medical Marijuana Commission, 10% to the Skills Development Fund, 50% to the Vocational and Technical Training Special Revenue Fund, and 30% to the General Revenue Fund; and permitting the

General Assembly by two-thirds vote to amend sections of the amendment, except that the General Assembly may not amend the sections legalizing the medical use of marijuana and setting the number of dispensaries or cultivation facilities allowed.

Who is the sponsor of this amendment?

Arkansans United for Medical Marijuana

What is being proposed?

This amendment includes several components. If approved by voters, this amendment would:

1. Make the regulated medical use of marijuana legal under Arkansas state law, while recognizing the drug remains illegal under federal law.
2. Establish a system for growing, acquiring and distributing marijuana for medical purposes.
3. Identify medical conditions that qualify a person for using medical marijuana.
4. Protect qualified patients, caregivers, growers, providers and doctors from arrest, prosecution, penalty or discrimination under Arkansas law. It does not offer protection from federal law.
5. Direct the state Department of Health to establish rules related to medical access of marijuana and the Alcoholic Beverage Control Commission to establish rules related to growing and selling marijuana for medical purposes.
6. Establish the Medical Marijuana Commission to administer and regulate the licensing of cultivation and dispensary facilities.
7. Allow cities and counties to enact zoning regulations that guide where dispensaries and cultivation facilities may locate, providing that the regulations are the same as those for a licensed pharmacy.
8. Allow cities and counties to prohibit dispensaries and cultivation facilities only if approved by voters in a local election.
9 Apply state and local taxes to the sale of medical marijuana and require that state tax revenues be used to offset the state's cost of administering the law and be distributed to various state workforce and education programs.
10. Prohibit anyone other than a licensed dispensary or cultivation facility from growing marijuana for medical purposes.
11. Permit legislators to change some sections of the amendment at a later date with a two-thirds vote. Sections legalizing medical use of marijuana and the number of dispensaries and cultivation facilities could not be changed.

Who would be allowed to use medical marijuana under this proposed amendment?

A person whose doctor has certified that they suffer from a qualifying medical condition and would benefit from the use of medical marijuana, and has received a Registry Identification Card from the Arkansas Department of Health.

Qualifying patients under the age of 18 would be required to have written permission from their parent, guardian or legal custodian to receive a Registry Identification Card. The guardian would be responsible for acquiring the marijuana and overseeing its use by the child.

A person could not obtain or use medical marijuana under this law without a Registry Identification Card. The cards expire in one year, or at an earlier date if specified by the patient's physician.

What qualifies as a medical condition under this amendment?

The proposed law defines three categories of qualifying medical conditions.

The first category includes specific ailments. The list includes cancer, glaucoma, positive status for human immunodeficiency virus (HIV)/acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Tourette's syndrome, Crohn's disease, ulcerative colitis, post-traumatic stress disorder (PTSD), severe arthritis, fibromyalgia and Alzheimer's disease.

The second category is defined as "A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment or surgical measures for more than 6 months; severe nausea; seizures, including without limitation those characteristic of epilepsy; or severe and persistent muscle spasms, including without limitation those characteristic of multiple sclerosis."

Third, the proposed law authorizes the Arkansas Department of Health to approve other medical conditions or treatments as qualifying conditions after public notice and a public hearing. Petitions from the public to add medical conditions would be considered by the Department of Health in the same way.

How would people obtain medical marijuana under this amendment?

There are two ways a person with a Registry Identification Card could obtain marijuana under this proposal.

- Qualified users could buy marijuana from dispensaries licensed by the Medical Marijuana Commission that would be created with the passage of this amendment.
- Qualified users could name a person as their "caregiver" and this person could obtain marijuana from the dispensary. A person convicted of a felony involving violence or the violation of controlled-substance laws within the past 10 years could not serve as a caregiver.

How much marijuana are we talking about?

A dispensary could dispense no more than 2.5 ounces of marijuana to a qualifying patient or designated caregiver in a 14-day period.

Beverly Yuen Thompson

Dispensaries could grow and possess 50 mature cannabis plants at any one time plus seedlings.

Cultivation facilities could grow and possess marijuana in an amount determined by the Medical Marijuana Commission and state Department of Health.

Could people use medical marijuana in public?

No. The proposed law bans the use and possession of medical marijuana in public places, schools, daycares, colleges, community or recreation centers, on public transportation, in drug and alcohol treatment facilities, and in correctional facilities. The proposed law would also forbid driving a motor vehicle, aircraft or watercraft under the influence of medical marijuana.

How many dispensaries and growing facilities would be allowed?

The amendment requires there be at least 20 but not more than 40 dispensary licenses issued and that there shall be at least four but not more than eight cultivation facility licenses issued. No more than four dispensaries are permitted in any one county.

What are some of the regulations proposed for dispensaries and growing facilities?

None of the owners, board members, officers or employees of a dispensary or cultivation facility could have been convicted of a felony involving violence or the violation of a substance-control law within the past 10 years.

A person would not be allowed to own an interest in more than one dispensary and one cultivation facility. People submitting an application to license a dispensary or cultivation facility must be current residents of Arkansas and have resided in the state for the previous seven years. In addition, 60 percent of the facility's ownership must be a current Arkansas resident and have resided in the state for the last seven years.

Doctors are prohibited from having an economic interest in a nonprofit cannabis care center if certifying people to qualify for medical marijuana, and no exams can take place at a location where cannabis is sold or distributed.

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

A dispensary could not locate within 1,500 feet of a public or private school, church or daycare that existed before the date of the dispensary's application. Cultivation facilities could not locate within 3,000 feet of those buildings.

Could marijuana be grown openly outside?

The amendment would require dispensaries to grow plants in enclosed, locked facilities. The proposal defines "enclosed, locked facility" as "a room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by an authorized individual."

If passed, can a city or county prohibit medical marijuana?

The proposed amendment allows a city, incorporated town or county to pass zoning regulations for dispensaries and cultivation facilities, as long as the regulations are the same as those for a licensed retail pharmacy.

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

What happens if a person doesn't follow the regulations?

A cardholder who transfers cannabis to a person without a card would have his or her registry identification card revoked and would be subject to any penalties established by law.

The Alcoholic Beverage Control Division would be tasked with creating penalties for violations of the laws and the procedures for suspending or terminating the registration of a dispensary, cultivation facility and their employees that violate the amendment.

If passed, what would happen with tax revenues?

State and local tax rates would apply to sales of cannabis. State taxes would be distributed in the following percentages:

- 50 percent to the Department of Finance and Administration for grants to technical institutes and vocational-technical schools
- 30 percent to the state General Revenue Fund
- 10 percent to the Department of Career Education for workforce training programs
- 5 percent to the Department of Health
- 2 percent to the Alcoholic Beverage Control Administration Division
- 2 percent to the Alcoholic Beverage Control Enforcement Division
- 1 percent to the Medical Marijuana Commission

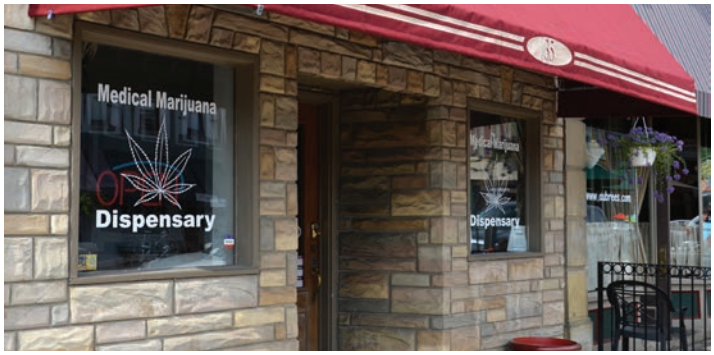
What's the difference between this proposal and an act that is also on the ballot to legalize the growing, distribution, sale and use of medical marijuana?

There is a table on pages 46-47 that highlights the differences between the two proposals.

If passed, when would the changes take effect?

Article 5, Section 1 of the Arkansas Constitution says ballot measures are in effect on the 30th day after the election at which it is approved unless otherwise specified.

The Arkansas Department of Health would have 120 days



© Smontgom65 | Dreamstime.com

from the law's effective date to adopt:

- Rules for considering and renewing applications for Registry Identification Cards
- Labeling and testing standards for marijuana distributed to qualifying patients
- Rules for designated caregivers assisting a physically disabled person or minor

The state health department would have 180 days to adopt rules establishing the process for considering petitions from the public to add medical conditions or treatments to the list of qualifying medical conditions.

Members of the Medical Marijuana Commission must be appointed within 30 days of the law's effective date, and the first meeting must take place within 45 days. The Medical Marijuana Commission would have 120 days from the law's effective date to adopt:

- Rules for considering and renewing licenses for dispensaries and cultivation facilities
- Operating, inspection and advertising requirements for dispensaries and cultivation facilities
- Application and renewal fees for dispensaries and cultivation facilities

The Medical Marijuana Commission must begin accepting applications for licenses to operate a dispensary and cultivation facility no later than June 1, 2017.

The Alcoholic Beverage Control Division would have 120 days from the law's effective date to adopt:

- Rules for considering and renewing applications of registry identification cards for dispensary and cultivation facility employees
- The form and content of registration and renewal applications
- Procedures for terminating the registration of dispensaries or cultivation facilities and subsequent penalties

Where can I find more information?

The complete wording of this amendment can be found at the bottom of an Attorney General's Opinion at http://ag.arkansas.gov/opinions/docs/2016-007.pdf.

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

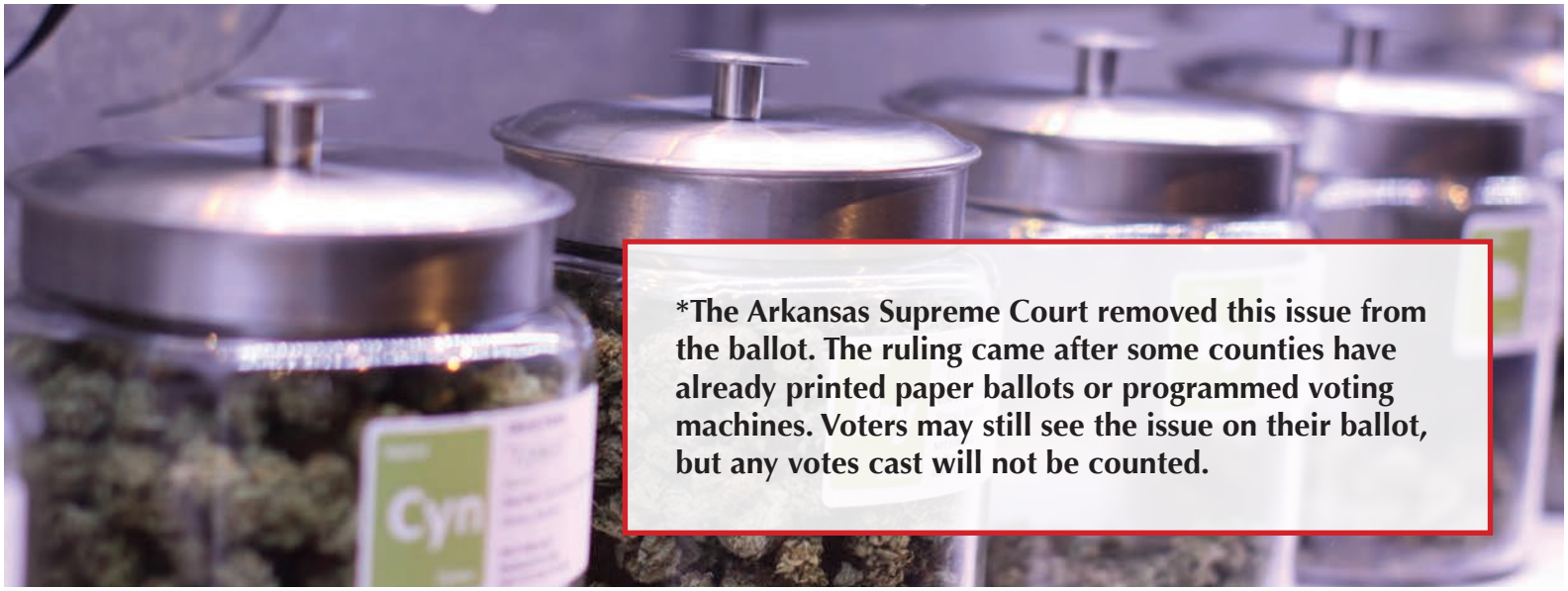
Issue No. 6

(Popular Name)
The Arkansas Medical Marijuana Amendment of 2016

(Ballot Title)
An amendment to the Arkansas Constitution making the medical use of marijuana legal under state law, but acknowledging that marijuana use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation, acquisition, and distribution of marijuana for qualifying patients through licensed medical marijuana dispensaries and cultivation facilities and granting those dispensaries and facilities limited immunity; providing that qualifying patients, as well as dispensary and cultivation facility agents, shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with the patients' medical use of marijuana; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician licensed in the state that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the department of health to establish rules related to the processing of applications for registry identification cards and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of marijuana; directing the Alcoholic Beverage Control Division to establish rules related to the operations of dispensaries and cultivation facilities; establishing a Medical Marijuana Commission of five members, two appointed by the President Pro Tempore of the Senate, two appointed by the Speaker of the House of Representatives, and one appointed by the Governor; providing that the Medical Marijuana Commission shall administer and regulate the licensing of dispensaries and cultivation facilities; providing that there shall be at least 20 but not more than 40 dispensary licenses issued and that there shall be at least four but not more than eight cultivation facility licenses issued; setting initial maximum application fees for dispensaries and cultivation facilities; establishing qualifications for registry identification cards; establishing standards to ensure that qualifying patient registration information is treated as confidential; directing the Department of Health to provide the General Assembly annual quantitative reports about the medical marijuana program; setting certain limitations on the use of medical marijuana by qualifying patients; establishing an affirmative defense for the medical use of marijuana; establishing registration and operation requirements for dispensaries and cultivation facilities; setting limits on the amount of marijuana a dispensary may cultivate and the amount of marijuana a dispensary may dispense to a qualifying patient; providing that the Medical Marijuana Commission shall determine the amount of marijuana a cultivation facility may cultivate; prohibiting certain conduct by and imposing certain conditions and requirements on physicians, dispensaries, dispensary and cultivation facility agents, and qualifying patients; establishing a list of felony offenses which preclude certain types of participation in the medical marijuana program; providing that the sale of usable marijuana is subject to all state and local sales taxes; providing that the state sales tax revenue shall be distributed 5% to the Department of Health, 2% to the Alcoholic Beverage Control Administration Division, 2% to the Alcoholic Beverage Control Enforcement Division, 1% to the Medical Marijuana Commission, 10% to the Skills Development Fund, 50% to the Vocational and Technical Training Special Revenue Fund, and 30% to the General Revenue Fund; and permitting the General Assembly by two-thirds vote to amend sections of the amendment, except that the General Assembly may not amend the sections legalizing the medical use of marijuana and setting the number of dispensaries or cultivation facilities allowed.

○ FOR

○ AGAINST



***The Arkansas Supreme Court removed this issue from the ballot. The ruling came after some counties have already printed paper ballots or programmed voting machines. Voters may still see the issue on their ballot, but any votes cast will not be counted.**

ISSUE NUMBER 7

(Proposed by Petition of the People)

Medical cannabis act

***being challenged in court**

POPULAR NAME: The Arkansas Medical Cannabis Act.

BALLOT TITLE: An act making the medical use of cannabis, commonly called marijuana, legal under Arkansas state law, but acknowledging that cannabis use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation and distribution of cannabis for qualifying patients through nonprofit cannabis care centers and for the testing for quality, safety, and potency of cannabis through cannabis testing labs; granting nonprofit cannabis care centers and cannabis testing labs limited immunity; allowing local cities to limit the number of nonprofit cannabis care centers and to enact zoning regulations governing their operation; providing that qualifying patients, their designated caregivers, cannabis testing lab agents, and nonprofit cannabis care center agents shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with qualifying, patients' medical use of cannabis or for testing and labeling cannabis; allowing limited cultivation of cannabis by qualifying patients and designated caregivers if the qualifying patient lives more than twenty (20) miles from a nonprofit cannabis care center and obtains a hardship cultivation certificate from the Department of Health; allowing compensation for designated caregivers; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the Department of Health to establish rules related to the processing of applications for registry identification cards and hardship cultivation certificates, the operations of nonprofit cannabis care centers and cannabis testing labs, and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from

(continued on page 40)

REMOVED FROM BALLOT*

QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of making the medical use of marijuana legal under Arkansas law and establishing a system for the cultivation, acquisition and distribution of marijuana for medical purposes.

AGAINST: An AGAINST vote means you are not in favor of making the medical use of marijuana legal under Arkansas law and establishing a system for the cultivation, acquisition and distribution of marijuana for medical purposes.

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?

- Arkansans for Compassionate Care says most Arkansans agree it is time to give sick and dying patients safe and legal access to medical cannabis when their doctors think it's the best treatment option for them.
- Twenty-five states in the U.S. have medical cannabis. There are countless clinical and pre-clinical studies evidencing that cannabis is a safer, more effective alternative to medication such as pain pills. The patients of Arkansas deserve a safer alternative.
- Compared to the 2012 proposal, the new Arkansas Medical Cannabis Act is better written, with tighter regulations, more oversight – and no patients left behind.
- Synthetic drugs containing similar chemicals as marijuana do not work for everyone, or address all of a patient's symptoms as they believe marijuana can.
- A similar medical marijuana proposal on the ballot includes fewer qualifying medical conditions and has no affordability provision for low-income patients, no hardship provision for patients who live far from a dispensary and no maximum license fee for patients.

What do opponents say?

- The Arkansas Department of Health says there are no scientific evaluations of the dosage and safety of marijuana varieties and preparations. Safe, effective, and reproducible treatment options will only come from clinical studies of defined preparations with known composition. A move to simply make marijuana legal in medical circumstances will not accomplish this.
- There are Food and Drug Administration-approved treatment alternatives for all the medical conditions proposed to be treated with marijuana.
- The sponsor of a competing medical marijuana proposal said his for-profit model for dispensaries is more likely to work than the act's nonprofit model.
- It's written so broadly that virtually any healthy adult with pain or nausea will be able to finagle a way to use marijuana. There won't be any prescriptions from a doctor – just a note. No pharmacies will dispense it, and no one will regulate the content or dosage.
- It will create a hardship for business owners to maintain a drug-free workplace due to the numerous safeguards built into the act that protect the user interests over the interests of the employer.

(continued from page 39)

the medical use of cannabis; setting maximum application and renewal fees for nonprofit cannabis care centers and cannabis testing labs; directing the Department of Health to establish a system to provide affordable cannabis from nonprofit cannabis care centers to low income patients; establishing qualifications for registry identification cards; establishing qualifications for hardship cultivation certificates; establishing standards to ensure that qualifying patient and designated caregiver registration information is treated as confidential; directing the Department of Health to provide the legislature annual quantitative reports about the medical cannabis program; setting certain limitations on the use of medical cannabis by qualifying patients; establishing an affirmative defense for the medical use of cannabis; establishing registration and operation requirements for nonprofit cannabis care centers and cannabis testing labs; setting limits on the number of nonprofit cannabis care centers; setting limits on the amount of cannabis a nonprofit cannabis care center may cultivate and the amount of usable cannabis a nonprofit cannabis care center may dispense to a qualifying patient; prohibiting certain conduct by and imposing certain conditions and

requirements on physicians, nonprofit cannabis care centers, nonprofit cannabis care center agents, cannabis testing labs, cannabis testing lab agents, qualifying patients, and designated caregivers; prohibiting felons from serving as designated caregivers, owners, board members, or officers of nonprofit cannabis care centers or cannabis testing labs, nonprofit cannabis care center agents, or cannabis testing lab agents; allowing visiting qualifying patients suffering from qualifying medical conditions to utilize the medical cannabis program; and prohibiting special taxes on the sale of medical cannabis and directing the state sales tax revenues received from the sale of cannabis to cover the costs to the Department of Health for administering the medical cannabis program and the remainder to aid low income qualifying patients through the affordability clause.

Who is the sponsor of this amendment?

Arkansans for Compassionate Care

What is being proposed?

This act, or state law, would do several things if passed by voters including:

1. Make the regulated medical use of marijuana legal under Arkansas state law, while recognizing the drug remains illegal under federal law.
2. Establish a system for growing, acquiring and distributing marijuana for medical purposes.

3. Identify medical conditions that qualify a person for using medical marijuana.
4. Allow patients or their caregivers to grow marijuana for medical purposes if they live 20 or more miles away from a dispensary. The person would have to apply for a license to grow the plant.
5. Direct the state Department of Health to establish rules related to Registry Identification Cards, hardship cultivation certificates, the operations of nonprofit cannabis care centers and cannabis testing labs, and the addition of qualifying medical conditions.
6. Protect qualified patients, caregivers, providers and doctors from arrest, prosecution, penalty or discrimination under Arkansas law. It does not offer protection from federal law.
7. Allow cities and counties to limit the number of dispensaries and enact zoning regulations guiding where dispensaries may locate.
8. Apply state and local taxes to the sale of medical marijuana and require that the state tax revenues offset the Department of Health's administrative expenses and be used to assist low-income patients with acquiring the drug.
9. Require the state to create a system for helping low-income people afford the drug.

Who would be allowed to use medical marijuana under this proposed act?

A person whose doctor has certified that they suffer from a qualifying medical condition and would benefit from the use of medical marijuana, and has received a Registry Identification Card from the Arkansas Department of Health.

Qualifying patients under the age of 18 would be required to have written permission from their parent, guardian or legal custodian to receive a Registry Identification Card. The guardian would be responsible for acquiring the marijuana and overseeing its use by the child.

A person could not obtain or use medical marijuana under this law without a Registry Identification Card. The cards expire in one year, or an earlier date specified in writing by the patient's physician.

What qualifies as a medical condition under this act?

The proposed law defines three categories of qualifying medical conditions.

The first category includes specific ailments. The list includes adiposis dolorosa (Dercum's disease); Alzheimer's disease or the agitation thereof; amyotrophic lateral sclerosis (ALS); anorexia; Arnold-Chiari malformation; arthritis; asthma; attention deficit disorder/attention deficit hyperactivity disorder (ADD/ADHD); autism; bipolar disorder; bulimia; cancer; causalgia; chronic inflammatory demyelinating polyneuropathy (CIDP); chronic insomnia; chronic obstructive pulmonary disease (COPD); copmlex regional pain syndrome (CRPS) – types 1 and II; Crohn's disease; dystonia; emphysema; fibrous dysplasia; fibromyalgia; general anxiety disorder; glaucoma; hepatitis C; positive status for human immunodeficiency virus and/or acquired immune deficiency syndrome (HIV/AIDS); hydrocephalus; interstital cystitis; lupus; migranes; myasthenia gravis; myoclonus; Nail-Patella syndrome; neurofibromatosis; Parkinson's disease; posterior lateral sclerosis (PLS); post-concussion syndrome; post traumatic stress disorder (PTSD); reflex sympathetic dystrophy (RSD); residual limb and phantom pain; restless leg syndrome (RLS); Sjogren's syndrome; spinocerebellar ataxia (SCA); spinal cord injury and/or disease (including but not limited to arachnoiditis); syringomelia; Tarlove cysts; Tourette's cyndrome; traumatic brain injury; ulcerative colitis; or the treatment of any of these conditions.

The second category is defined as "A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment or surgical measures for more than 3 months; severe nausea; seizures, including those characteristics of epilepsy; or severe and persistent muscle spasms, including those characteristics of multiple sclerosis."

Third, the proposed law authorizes the Arkansas Department of Health to approve other medical conditions or treatments as qualifying conditions after public notice and a public hearing. Petitions from the public to add medical conditions would be considered by the Department of Health in the same way.

How would people obtain medical marijuana under this law?

There are several ways a person with a Registry Identification Card could obtain marijuana under this proposal.

- Qualified users could buy marijuana from nonprofit cannabis care centers that are registered with the Arkansas Department of Health.
- Qualified users who live more than 20 miles away from a nonprofit cannabis care center could grow their own marijuana after receiving a hardship cultivation certificate from the Arkansas Department of Health. A person convicted of a felony could not receive a cultivation certificate.
- Qualified users could name a person as their "caregiver" and this person could obtain marijuana from the dispensary. Caregivers could also grow the plant for people who live more than 20 miles from a dispensary and have a hardship cultivation certificate from the Arkansas Department of Health. A person convicted of a felony could not serve as a caregiver.

How much marijuana are we talking about?

A nonprofit cannabis care center or designated caregiver could dispense no more than 2.5 ounces of marijuana to a qualifying patient or designated caregiver in a 15-day period.

People who have a hardship cultivation certificate from the Arkansas Department of Health could grow up to 10 plants, of which five could be greater than 12 inches in height or diameter. Caregivers can have up to 10 plants for each person they are assisting. They are limited to assisting five people, which would mean no more than 50 plants at one time.

Nonprofit cannabis care centers could grow and possess whichever amount is greater:

- 100 cannabis plants, of which 50 may be mature
- 10 cannabis plants (of which five may be mature) for each qualifying patient who has designated the center as his or her dispensary

Could marijuana be grown openly outside?

The law would require patients, caregivers and dispensaries to grow plants in enclosed, locked facilities. The proposal defines "enclosed, locked facility" as "a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a cardholder."

Plants and harvested cannabis in varying stages of processing must be kept in these facilities unless they are being transported to a patient's property.

Could people use medical marijuana in public?

No. The proposed law bans the use and possession of medical marijuana in public places, schools, daycares, community centers, on public transportation, in drug and alcohol treatment facilities and in correctional facilities. The proposed law would also forbid driving a motor vehicle, aircraft or watercraft under the influence of medical marijuana.

How many nonprofit cannabis care centers would be allowed?

According to the proposal, the state health department may not issue more than one nonprofit cannabis care center certificate for every 20 pharmacies that have obtained a pharmacy permit from the Arkansas Board of Pharmacy and operate within the state. Based on the current number of pharmacies in the state, there could be 39 nonprofit cannabis care center certificates issued.

The proposal includes an exception that would allow the state health department to issue more certificates than the formula calls for if it determines additional care centers are needed to provide convenient access.

What is a cannabis testing lab?

It is a facility where cannabis-based products would be tested for its potency and quality. According to the act, nonprofit cannabis care centers would be required to submit samples of usable cannabis to a testing lab to be tested and labeled for potency and to guarantee a pesticide-free and organically grown product. Labs would be registered with the state health department.

What are some of the regulations proposed for dispensaries and testing labs?

None of the owners, board members, officers or employees of a nonprofit cannabis care center or testing lab could have been convicted of a felony. Dispensaries and testing labs could not locate within 1,000 feet of the property line of a pre-existing public or private school.

Doctors are prohibited from having an economic interest in a nonprofit cannabis care center if certifying people to qualify for medical marijuana, and no exams can take place at a location where cannabis is sold or distributed.

What happens if a person doesn't follow the regulations?

A cardholder who transfers cannabis to a person without a card will have his or her Registry Identification Card or hardship cultivation certificate revoked and would be subject to penalties for unlawful transfer of a controlled substance.

The Department of Health would be tasked with creating the procedures for suspending or terminating the registration of a nonprofit cannabis care center or testing lab that violates the law and the associated penalties.

If passed, can a city or county prohibit medical marijuana?

The proposed act allows a city, incorporated town or county to limit the number of nonprofit cannabis care centers that operate within its boundaries and pass zoning regulations for the dispensaries.

What does the act say about qualifying patients who don't have money to purchase marijuana?

The proposed law requires the state health department to establish a system of providing marijuana to qualifying patients. The system would take into consideration a person's income and financial resources and provide financial relief to ensure affordable access. State taxes collected from the sale of cannabis products would fund the program.

Additionally, each dispensary would be required to devote a maximum of 1 percent of its gross revenue to provide cannabis to qualifying patients who qualify for assistance under the health department's program.

If passed, what would happen with tax revenues?

State and local tax rates would apply to sales of cannabis. State taxes would be used to offset the cost of the Department of Health's administration of the law. Any remaining funds would be used to provide cannabis to qualifying patients who, based on their income, couldn't afford it.

What's the difference between this proposal and an constitutional amendment that is also on the ballot to legalize the growing, distribution, sale and use of medical marijuana?

There is a table on pages 46-47 that highlights the differences between the two proposals.

If passed, when would the changes take effect?

Article 5, Section 1 of the Arkansas Constitution says ballot measures are in effect on the 30th day after the election at which it is approved, unless otherwise specified.

The Arkansas Department of Health has 120 days from the law's effective date to develop:

- Rules for considering and renewing applications for Registry Identification Cards
- Rules for considering and renewing registration certificates for nonprofit cannabis care centers
- Rule for the operation of nonprofit cannabis care centers
- Application and renewal fees for nonprofit cannabis care centers and cannabis testing labs
- The process for considering petitions from the public to add medical conditions or treatments to the list of qualifying medical conditions

The state health department would have 180 days to adopt rules establishing how to dispense cannabis to qualifying patients who, based on their income, are unable to afford it.

The agency would also have one year to adopt rules governing how it considers applications for hardship cultivation certificates.

Where can I find more information?

The complete wording of this amendment can be found at the bottom of an Attorney General's Opinion at http://ag.arkansas.gov/opinions/docs/2014-086.pdf.

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

Issue No. 7

(Popular Name)
THE ARKANSAS MEDICAL CANNABIS ACT

(Ballot Title)
An act making the medical use of cannabis, commonly called marijuana, legal under Arkansas state law, but acknowledging that cannabis use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation and distribution of cannabis for qualifying patients through nonprofit cannabis care centers and for the testing for quality, safety, and potency of cannabis through cannabis testing labs; granting nonprofit cannabis care centers and cannabis testing labs limited immunity; allowing localities to limit the number of nonprofit cannabis care centers and to enact zoning regulations governing their operations; providing that qualifying patients, their designated caregivers, cannabis testing lab agents, and nonprofit cannabis care center agents shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with qualifying, patients' medical use of cannabis or for testing and labeling cannabis; allowing limited cultivation of cannabis by qualifying patients and designated caregivers if the qualifying patient lives more than twenty (20) miles from a nonprofit cannabis care center and obtains a hardship cultivation certificate from the Department of Health; allowing compensation for designated caregivers; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the Department of Health to establish rules related to the processing of applications for registry identification cards and hardship cultivation certificates, the operations of nonprofit cannabis care centers and cannabis testing labs, and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of cannabis; setting maximum application and renewal fees for nonprofit cannabis care centers and cannabis testing labs; directing the Department of Health to establish a system to provide affordable cannabis from nonprofit cannabis care centers to low income patients; establishing qualifications for registry identification cards; establishing qualifications for hardship cultivation certificates; establishing standards to ensure that qualifying patient and designated caregiver registration information is treated as confidential; directing the Department of Health to provide the legislature annual quantitative reports about the medical cannabis program; setting certain limitations on the use of medical cannabis by qualifying patients; establishing an affirmative defense for the medical use of cannabis; establishing registration and operation requirements for nonprofit cannabis care centers and cannabis testing labs; setting limits on the number of nonprofit cannabis care centers; setting limits on the amount of cannabis a nonprofit cannabis care center may cultivate and the amount of usable cannabis a nonprofit cannabis care center may dispense to a qualifying patient; prohibiting certain conduct by and imposing certain conditions and requirements on physicians, nonprofit cannabis care centers, nonprofit cannabis care center agents, cannabis testing labs, cannabis testing lab agents, qualifying patients, and designated caregivers; prohibiting felons from serving as designated caregivers, owners, board members, or officers of nonprofit cannabis care centers or cannabis testing labs, nonprofit cannabis care center agents, or cannabis testing lab agents; allowing visiting qualifying patients suffering from qualifying medical conditions to utilize the medical cannabis program; and prohibiting special taxes on the sale of medical cannabis and directing the state sales tax revenues received from the sale of cannabis to cover the costs to the Department of Health for administering the medical cannabis program and the remainder to aid low income qualifying patients through the affordability clause.

○ FOR

○ AGAINST

What's the difference between the Arkansas Medical Cannabis Act and the Arkansas Medical Marijuana Amendment?

While both the proposed act and a constitutional amendment would legalize the growing, selling, distribution and use of marijuana for medical purposes, there are a number of differences between the proposed state law and the amendment. The below table highlights some of these differences.

Issue 6: **Medical Marijuana Amendment**	Issue 7: **Medical Cannabis Act**
Would legalize medical marijuana under state law by amending the Arkansas Constitution to constitutionally protect the use of medical marijuana. The amendment could repealed only by another citizen initiative. Legislators can change the amendment with 2/3 vote, but can't alter sections that legalize growing, selling, distribution and use of marijuana for medical purposes or number of dispensaries and cultivation facilities allowed.	Would legalize medical marijuana under state law by adopting a statute that could be changed by another citizen initiative or a two-thirds vote in the state Senate and House of Representatives.
No provision for qualified patients to grow their own marijuana.	Cardholders who live more than 20 miles from dispensary can grow a limited number of cannabis plants for themselves.
State tax revenues pay for administering program with remaining funds divided among state workforce training and technical school funds, and state General Fund.	State tax revenues pay for administering program and to provide access to marijuana for low-income patients.
No provision for assisting low-income patients with purchasing medical marijuana.	Provision for state health department to assist low-income patients access medical marijuana.
Felony conviction related to violence or violation of controlled substance law within past 10 years disqualifies a person from being a caregiver, dispensary owner or employee, or growing facility owner or employee.	Any felony conviction prevents a person from being a caregiver, dispensary owner or employee, or testing lab owner or employee.
17 specified qualifying patient conditions.	56 specified qualifying patient conditions.
A Registry Identification Card or other documentation from another state is acceptable to purchase cannabis from an Arkansas dispensary.	A person visiting from another state who wants to purchase cannabis from an Arkansas dispensary would need to apply for a Registry Identification Card from the Arkansas Department of Health.
Prohibits use of medical marijuana on college campuses.	No provision prohibiting use of medical marijuana on college campuses.
Medical Marijuana Commission and Alcohol Beverage Control regulate dispensaries and cultivation facilities.	State health department regulates dispensaries.
No provision for testing lab.	Establishes testing labs to test marijuana for pesticides and quality.

Issue 6: **Medical Marijuana Amendment**	Issue 7: **Medical Cannabis Act**
Dispensary or cultivation facility can grow marijuana.	Dispensary can grow marijuana.
Arkansas residency requirements for dispensaries and cultivation facility owners.	No provision for Arkansas residency requirements for dispensaries and cultivation facility owners.
Department of Health directed to pass advertising restrictions for dispensaries and cultivation facilities.	No provision for advertising restrictions for dispensaries and cultivation facilities.
Initial application fees: At most $7,500 for dispensary At most $15,000 for cultivation facility Renewal fees up to Department of Health to establish. Registry Identification Card fee up to Department of Health to establish, but a sliding scale of application and renewal fees based on patient's family income may be created.	Initial application fees: At most $5,000 for dispensary Renewal fees: At most $1,000 for dispensary Registry Identification Card fee may not exceed $50 per year. A sliding scale of application and renewal fees based on a patient's family income will be created.
State must issue at least 20 but no more than 40 dispensary licenses. There can be no more than four dispensaries in any one county.	Number of dispensaries based on number of retail pharmacies in the state. Formula is one dispensary for every 20 pharmacies – 39 potential dispensaries.
Background checks are optional for dispensary and cultivation facility owners, board members, officers, employees and volunteers.	Background checks required for all caregivers; hardship cultivation certificate applicants; dispensary owners, board members, officers, and employees; and testing lab owners, board members, officers and employees.
No provision for dispensaries to be nonprofit.	Dispensaries must operate on not-for-profit basis but aren't required to be recognized as a tax-exempt organization under 26 U.S.C. § 501(c)(3).
Dispensaries may distribute 2.5 ounces of marijuana to qualifying patients every 14 days.	Dispensaries may distribute 2.5 ounces of marijuana to qualifying patients every 15 days.
Dispensaries must be 1,500 feet from preexisting public or private school, church or daycare. Cultivation facilities must be at least 3,000 feet from those buildings.	Dispensaries and testing labs must be 1,000 feet from preexisting public or private school.
Patients can use any dispensary.	Patients must designate which dispensary they will use.
Cities and counties can enact zoning laws similar to retail pharmacy laws.	Cities and counties can limit number of dispensaries within borders and enact zoning laws.
Voters can prohibit dispensaries and cultivation facilities in their community through local election.	No provision for local election.

Get the Facts ✓

Since 2004, the Public Policy Center at the University of Arkansas System Division of Agriculture has published easy-to-read fact sheets on statewide ballot measures so voters have 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:

- **Attorneys**
- **Subject experts**
- **Issue supporters**
- **Issue opponents**

Share What You've Learned

The University of Arkansas System Division of Agriculture gives permission for individuals or organizations to copy and/or reproduce this publication. The Public Policy Center at the University of Arkansas System Division of Agriculture is to be appropriately cited as the source, and the user will refrain from altering the content in any way that might be construed to suggest that the Arkansas Cooperative Extension Service is a supporter or opponent of an issue.

Digital versions of this publication are available at at www.uaex.edu/ballot.

Contact Us:

Phone: **501-671-2299**
E-mail: **publicpolicycenter@uaex.edu**
Online: **www.uaex.edu/ppc**
Facebook: **www.facebook.com/uappc**
Twitter: **@uaex_ppc #ARballot #ARvotes16**

PUBLIC POLICY CENTER

U of A DIVISION OF AGRICULTURE
RESEARCH & EXTENSION
University of Arkansas System

Arkansas State Ballot Issues Worksheet

The Public Policy Center seeks to help Arkansans better understand the financial, social or policy implications of a proposed law by publishing 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...	
○ FOR ○ AGAINST	ISSUE NUMBER 1 Proposing an amendment to the Arkansas Constitution concerning the terms, election, and eligibility of elected officials. Notes: _____
○ FOR ○ AGAINST	ISSUE NUMBER 2 A constitutional amendment to allow the governor to retain his or her powers and duties when absent from the state. Notes: _____
○ FOR ○ AGAINST	ISSUE NUMBER 3 An amendment to the Arkansas Constitution concerning job creation, job expansion, and economic development. Notes: _____

(continued on back side)

I plan to vote...	
○ FOR ○ AGAINST	ISSUE NUMBER 4 An amendment to limit attorney contingency fees and non-economic damages in medical lawsuits. Notes: _____
○ FOR ○ AGAINST	ISSUE NUMBER 5 An amendment to allow three casinos to operate in Arkansas, one each in the following counties: Boone County, operated by Arkansas Gaming and Resorts, LLC; Miller County, operated by Miller County Gaming, LLC; and Washington County, operated by Washington County Gaming, LLC. Notes: _____
○ FOR ○ AGAINST	ISSUE NUMBER 6 The Arkansas Medical Marijuana Amendment of 2016. Notes: _____
○ FOR ○ AGAINST	ISSUE NUMBER 7 The Arkansas Medical Cannabis Act. Notes: _____

REMOVED FROM BALLOT

REMOVED FROM BALLOT

REMOVED FROM BALLOT

The University of Arkansas System Division of Agriculture offers all its Extension and Research programs and services without regard to race, color, sex, gender identity, sexual orientation, national origin, religion, age, disability, marital or veteran status, genetic information, or any other legally protected status, and is an Affirmative Action/Equal Opportunity Employer.

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

Polling places are open on Election Day, Nov. 8, 2016, 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.**

You can **view an example online of what your ballot will look like by going to www.voterview.ar-nova.org** and clicking on "registration information." This website is run by the Arkansas Secretary of State's Office.

UofA DIVISION OF AGRICULTURE
RESEARCH & EXTENSION
University of Arkansas System

PUBLIC POLICY CENTER

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