



The Arkansas Supreme Court on Aug. 27, 2020 ruled that Issue 5 did not qualify for the ballot. However, on Sept. 2, the issue's sponsor filed a federal lawsuit asking that the proposal be include on the ballot. Because of this lawsuit, we are including Issue 5 in our voter guide. Visit [uaex.edu/ballot](http://uaex.edu/ballot) for the latest information.

## ISSUE NUMBER 5

(Proposed by Petition of the People)

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

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

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

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## QUICK LOOK: What does your vote mean?

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

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

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

## What do supporters say?

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

## What do opponents say?

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

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

## What is being proposed?

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

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

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

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

If passed, the proposed amendment would also:

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

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

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

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

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

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

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

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

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

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

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

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

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



## Sample Ranked Choice Ballot in General Election

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This amendment would take effect Jan. 1, 2021.

## Where can I find more information?

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

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

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Issue No. 5

(Popular Name)

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

(Ballot Title)

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

FOR ISSUE NO. 5

AGAINST ISSUE NO. 5