

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
90th General Assembly  
Regular Session, 2015

HJR 1026

By: Representative J. Mayberry

## HOUSE JOINT RESOLUTION

AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO ABOLISH THE OFFICE OF LIEUTENANT GOVERNOR ON JANUARY 1, 2019; PROVIDING FOR THE SECRETARY OF STATE TO ASSUME THE OFFICE OF GOVERNOR IN THE EVENT OF A VACANCY; PROVIDING THAT THE GOVERNOR SHALL RETAIN THE POWERS AND DUTIES OF THE OFFICE OF GOVERNOR WHEN ABSENT FROM THE STATE; AUTHORIZING THE GOVERNOR TO DESIGNATE THE SECRETARY OF STATE TO ACT AS GOVERNOR IF THE GOVERNOR IS ABSENT FROM THE STATE; SPECIFYING THE ROLES OF THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES DUE TO A VACANCY IN THE OFFICES OF GOVERNOR AND SECRETARY OF STATE OR THE ABSENCE FROM THE STATE OF BOTH OFFICIALS; AND SPECIFYING THE PROCESS FOR FILLING A VACANCY IN THE OFFICE OF SECRETARY OF STATE DUE TO THE HOLDER OF THAT OFFICE ASSUMING THE OFFICE OF GOVERNOR AFTER A VACANCY OCCURS.

### Subtitle

AN AMENDMENT TO THE ARKANSAS CONSTITUTION  
TO ABOLISH THE OFFICE OF LIEUTENANT  
GOVERNOR ON JANUARY 1, 2019.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:



THAT the following is proposed as an amendment to the Constitution of the State of Arkansas, and upon being submitted to the electors of the state for approval or rejection at the next general election for Representatives and Senators, if a majority of the electors voting thereon at the election adopt the amendment, the amendment shall become a part of the Constitution of the State of Arkansas, to wit:

SECTION 1. The office of Lieutenant Governor is abolished.

SECTION 2. Section 1 of Article 6 of the Arkansas Constitution is repealed.

~~§ 1. Executive officers.~~

~~The executive department of this State shall consist of a Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State and Attorney General, all of whom shall keep their offices in person at the seat of government and hold their offices for the term of two years and until their successors are elected and qualified, and the General Assembly may provide by law for the establishment of the office of Commissioner of State Lands.~~

SECTION 3. Section 5 of Article 6 of the Arkansas Constitution is repealed.

~~§ 5. Qualifications of Governor.~~

~~No person shall be eligible to the office of Governor except a citizen of the United States, who shall have attained the age of thirty years, and shall have been seven years a resident of this State.~~

SECTION 4. Sections 12, 13, and 14 of Article 6 to the Arkansas Constitution are repealed.

~~§ 12. President of Senate succeeding to Governor's office.~~

~~In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the State, or other disability of the Governor, the powers, duties and emoluments of the office for the remainder of the term, or until the disability be removed, or a Governor elected and qualified, shall devolve upon, and accrue, to the President of the Senate.~~

~~§ 13. Speaker of House succeeding to office of Governor.~~

~~If, during the vacancy of the office of Governor, the President of the Senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State; the Speaker of the House of Representatives shall, in like manner, administer the government.~~

~~§ 14. Election to fill vacancy.~~

~~Whenever the office of Governor shall have become vacant by death, resignation, removal from office or otherwise, provided such vacancy shall not happen within twelve months next before the expiration of the term of office for which the late Governor shall have been elected, the President of the Senate or Speaker of the House of Representatives, as the case may be, exercising the powers of Governor for the time being, shall immediately cause an election to be held to fill such vacancy, giving, by proclamation, sixty days, previous notice thereof, which election shall be governed by the same rules prescribed for general elections of Governor as far as applicable; the returns shall be made to the Secretary of State, and the acting Governor, Secretary of State and Attorney General shall constitute a board of canvassers, a majority of whom shall compare said returns and declare who is elected; and if there be a contested election, it shall be decided as may be provided by law.~~

SECTION 5. Subsection (a) of Section 30 of Article 19 of the Arkansas Constitution is amended to read as follows:

(a) Persons elected or appointed to the following offices shall not knowingly or willfully solicit or accept a gift from a lobbyist, a person acting on behalf of a lobbyist, or a person employing or contracting with a lobbyist:

- (1) Governor;
- ~~(2) Lieutenant Governor;~~
- ~~(3)~~(2) Secretary of State;
- ~~(4)~~(3) Treasurer of State;
- ~~(5)~~(4) Auditor of State;
- ~~(6)~~(5) Attorney General;
- ~~(7)~~(6) Commissioner of State Lands;
- ~~(8)~~(7) Member of the General Assembly; and

~~(9)~~(8) Member of the independent citizens commission for the purpose of setting salaries of elected constitutional officers of the executive department, members of the General Assembly, justices, and judges under Article 19, § 31, of this Constitution.

SECTION 6. Section 31 of Article 19 of the Arkansas Constitution is amended to read as follows:

§ 31. Independent citizens commission.

(a) As provided in this section, members of the General Assembly shall have no authority to set salaries for:

- (1) Their positions as members of the General Assembly;
- (2) Elected constitutional officers of the executive department;
- (3) Justices; and
- (4) Judges.

(b)(1) There is created an independent citizens commission for the purpose of setting salaries of elected constitutional officers of the executive department, members of the General Assembly, justices, and judges as provided in this section.

(2)(A) Each member of the independent citizens commission shall serve a term of four (4) years.

(B) A person shall not serve more than two (2) terms on the independent citizens commission.

(3) The independent citizens commission shall consist of seven (7) members as follows:

- (A) Two (2) members appointed by the Governor;
- (B) Two (2) members appointed by the President ~~Pro-Tempore~~ of the Senate;
- (C) Two (2) members appointed by the Speaker of the House of Representatives; and
- (D) One (1) member appointed by the Chief Justice of the Supreme Court.

(4) Vacancies on the independent citizens commission shall be filled in the manner of the original appointment.

(5) The independent citizens commission shall elect from its membership:

- (A) A chair; and

(B) Other officers deemed necessary by the independent citizens commission.

(6) Four (4) members of the independent citizens commission shall constitute a quorum for the purpose of transacting business.

(7) A majority vote of the total membership of the independent citizens commission is required for any action of the independent citizens commission.

(8) The office of the Auditor of State shall provide staff assistance as may be requested by the independent citizens commission.

(c)(1) In making appointments to the independent citizens commission, the Governor, the President ~~Pro Tempore~~ of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court shall consider racial, gender, and geographical diversity.

(2) A member of the independent citizens commission shall be:

(A) A citizen of the United States;

(B) A resident of the State of Arkansas for at least two (2) years preceding his or her appointment;

(C) A qualified elector; and

(D) At least twenty-five (25) years of age.

(3) The following persons shall not serve on the independent citizens commission:

(A) A person holding civil office;

(B) An employee of the State of Arkansas;

(C) A person required by law to register as a lobbyist; or

(D)(i) An immediate family member of:

(a) A person holding civil office;

(b) An employee of the State of Arkansas; or

(c) A person required by law to register as a lobbyist.

(ii) As used in subdivision (c)(3)(D)(i) of this section, "immediate family member" means a person's spouse, a child of the person or spouse, a child's spouse, a parent of the person or the spouse, a brother or sister of the person or the spouse, anyone living or residing in the same residence or household with the person or the spouse, or anyone acting or serving as an agent of the person.

(d) The independent citizens commission shall have the duty to review

and adjust as it deems necessary the salaries for the following positions:

- (1) Governor;
- ~~(2) Lieutenant Governor;~~
- ~~(3)~~(2) Attorney General;
- ~~(4)~~(3) Secretary of State;
- ~~(5)~~(4) Treasurer of State;
- ~~(6)~~(5) Auditor of State;
- ~~(7)~~(6) Commissioner of State Lands;
- ~~(8)~~(7) Member of the General Assembly;
- ~~(9)~~(8) Chief Justice of the Supreme Court;
- ~~(10)~~(9) Justice of the Supreme Court;
- ~~(11)~~(10) Chief Judge of the Court of Appeals;
- ~~(12)~~(11) Judge of the Court of Appeals;
- ~~(13)~~(12) Circuit court judge; and
- ~~(14)~~(13) District court judge.

(e)(1) The salaries of the positions under subsection (d) of this section:

(A) Shall not be subject to appropriation by the General Assembly; and

(B) Shall be paid from the Constitutional Officers Fund or its successor fund or fund accounts in the amount determined by the independent citizens commission.

(2)(A) If the independent citizens commission proposes to adjust a salary for a position under subsection (d) of this section, the independent citizens commission shall:

(i) Provide notice to the public of the proposed salary adjustment;

(ii) Make available to the public any data reviewed by the independent citizens commission in determining the proposed salary adjustment; and

(iii) Afford the public a reasonable opportunity to provide public comment on the proposed salary adjustment.

(B) A proposed salary adjustment of the independent citizens commission shall not be considered a rule under the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(3) Upon satisfying (e)(2)(A)(i)-(iii) of this section, the

independent citizens commission may file the adjusted salary with the Auditor of State.

(4) An adjustment to a salary shall be effective ten (10) days after it is filed with the Auditor of State.

(5) When considering whether or not to adjust a salary for a position under subsection (d) of this section, the independent citizens commission shall include in its considerations the overall economic condition of the state at that time.

(f)(1)(A) The independent citizens commission, by a majority vote of the total membership of the independent citizens commission cast during its first regularly scheduled meeting of each calendar year, may authorize payment to its members of a stipend not to exceed eighty-five dollars (\$85.00) per day for each meeting attended or for any day while performing any proper business of the independent citizens commission.

(B) Stipends shall be paid by the Auditor of State from funds available for that purpose.

(2) Members of the independent citizens commission shall receive no other compensation, expense reimbursement, or in-lieu-of payments.

(g)(1) The independent citizens commission shall provide that the salaries of circuit judges be uniform throughout the state.

(2)(A) Except as provided in this subdivision (g)(2), the independent citizens commission may increase or diminish the salaries for the positions under subsection (d) of this section.

(B) The independent citizens commission may increase but not diminish the salaries for the positions under subdivisions (d)~~(9)~~-~~(14)~~(8)-(13) of this section.

(3)(A) Except as provided in subdivision (g)(3)(B) of this section, no single adjustment at any one (1) time to a salary by the independent citizens commission shall exceed fifteen percent (15%) of the salary to be increased or diminished.

(B) Salary adjustments resulting from the initial review of the independent citizens commission under subdivision (i)(3) of this section shall not be subject to subdivision (g)(3)(A) of this section.

(4) The independent citizens commission shall provide for salaries to be paid in monthly installments.

(h) Salaries for the positions under subsection (d) of this section

shall continue as existing on November 4, 2014, until adjusted by the independent citizens commission.

(i)(1) Initial members of the independent citizens commission shall be appointed within thirty (30) days of the effective date of this section.

(2) The President ~~Pro Tempore~~ of the Senate shall call the first meeting of the independent citizens commission, which shall occur within forty-five (45) days of the effective date of this section.

(3)(A) The independent citizens commission:

(i) Shall complete an initial review of the salaries for the positions under subsection (d) of this section no later than ninety (90) days after the effective date of this section; and

(ii) May file any adjustments in salary resulting from the initial review with the Auditor of State upon satisfying (e)(2)(A)(i)-(iii) of this section.

(B) No later than ninety (90) days after the effective date of this section, the independent citizens commission shall also provide recommendations to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives concerning the amounts to be paid to members of the General Assembly for:

(i) Per diem;

(ii) Reimbursement for expenses; and

(iii) Reimbursement for mileage.

(4)(A) After completing the initial review under subdivision (i)(3) of this section, the independent citizens commission shall meet as necessary to review the salaries of the positions under subsection (d) of this section but shall not meet less than one (1) time per year.

(B) The independent citizens commission may adjust the salaries of the positions under subsection (d) of this section as provided in this section as it deems necessary.

(j) No later than ninety (90) days before the commencement of a regular session, the independent citizens commission shall provide recommendations to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives concerning the amounts to be paid to members of the General Assembly for:

(1) Per diem;

(2) Reimbursement for expenses; and

(3) Reimbursement for mileage.

(k) The independent citizens commission shall be subject to the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

(l) The General Assembly, in the same manner as required for amendment of laws initiated by the people, may amend this section, so long as such amendments are germane to this section and consistent with its policy and purposes.

SECTION 7. Section 2 of Amendment 6 of the Arkansas Constitution is repealed.

~~§ 2. Executive power vested in Governor and Lieutenant Governor. The executive power shall be vested in a Governor, who shall hold office for two years; a Lieutenant Governor shall be chosen at the same time and for the same term. The Governor and Lieutenant Governor elected next preceding the time when this section shall take effect shall hold office until and including the second Monday of September, and their successors shall be chosen at the general election in that year.~~

SECTION 8. Sections 3, 4, and 5 of Amendment 6 of the Arkansas Constitution are amended to read as follows:

§ 3. Election of Governor ~~and Lieutenant Governor.~~

The Governor ~~and Lieutenant Governor~~ shall be elected at the times and places of choosing members of the Assembly. The ~~persons respectively~~ person having the highest number of votes for Governor ~~and Lieutenant Governor~~ shall be elected, but in case two (2) or more shall have an equal and the highest number of votes for Governor, ~~or for Lieutenant Governor, the two~~ both houses of the Legislature at its next annual session shall forthwith, by joint ballot, choose one (1) of the said persons so having an equal and the highest number of votes for Governor ~~or Lieutenant Governor.~~

§ 4. ~~Lieutenant Governor~~ Secretary of State acting as Governor.

(a)(1) In case of the impeachment of the Governor, or his or her removal from office, death, inability to discharge the powers and duties of the ~~said~~ office, or resignation ~~or absence from the State~~, the powers and duties of the office, shall devolve upon the ~~Lieutenant Governor~~ Secretary of State for the residue of the term, or until the disability shall cease.

(2)(A) If the powers and duties of the office of Governor devolve upon the Secretary of State for the residue of the term due to a vacancy in the office of Governor under subdivision (a)(1) of this section, a special election shall be held for the office of Secretary of State.

(B)(i) The General Assembly may provide by law for the procedures to be used when holding a special election for the office of Secretary of State under this section.

(ii) Laws enacted by the General Assembly may provide that a special election for the office of Secretary of State not be held if a vacancy occurs less than six (6) months before the office of Secretary of State will be filled in regular course at the next scheduled general election.

(C)(i) The Secretary of State upon whom the office of Governor has devolved under subdivision (a)(1) of this section shall appoint an individual to serve as Secretary of State until the election of an individual as Secretary of State at a special election.

(ii) The individual appointed to serve as Secretary of State is not eligible to run for the office at the special election.

(iii) If the General Assembly provides by law that a special election not be held as provided in subdivision (a)(2)(B)(ii) of this section, an individual appointed by the Governor less than six (6) months before the office of Secretary of State will be filled at the next general election shall serve until an individual is elected to the office of Secretary of State at the general election and qualified.

(b)(1) If the Governor is absent from the State, he or she may designate the Secretary of State to act as Governor until the Governor returns to the State.

(2) ~~But when~~ When the Governor shall, with the consent of the Legislature, be out of the State, in time of war, at the head of a military force thereof, he ~~or she~~ shall continue as commander-in-chief of all the military force of the State.

~~§ 5. Qualifications and duties of Lieutenant Governor—~~ Succession to the governorship.

~~(a) The Lieutenant Governor shall possess the same qualifications of eligibility for the office as the Governor. He shall be President of the~~

~~Senate, but shall have only a casting vote therein in case of a tie vote.~~ If during a vacancy of the office of Governor, the ~~Lieutenant Governor~~ Secretary of State shall be impeached, displaced, resign, die, or become incapable of performing the duties of his or her office ~~or be absent from the State~~, the President of the Senate shall act as Governor until the vacancy be filled or the disability shall cease; and if the President of the Senate for any of the above causes shall become incapable of performing the duties pertaining to the office of Governor, the Speaker of the ~~Assembly~~ House of Representatives shall act as Governor until the vacancy be filled or the disability shall cease.

(b)(1) If the Secretary of State is absent from the State while designated by the Governor to act as Governor while the Governor is absent from the State, the President of the Senate shall act as Governor until the Governor or Secretary of State returns to the State.

(2) If both the Secretary of State and the President of the Senate are absent from the State while the Secretary of State has been designated to act as Governor, the Speaker of the House of Representatives shall act as Governor until the Governor, Secretary of State, or President of the Senate returns to the State.

SECTION 9. Sections 1 and 2 of Amendment 29 of the Arkansas Constitution are amended to read as follows:

§ 1. Elective offices – Exceptions.

Vacancies in the office of United States Senator, and in all elective state, district, circuit, county, and township offices except those of ~~Lieutenant Governor~~ Secretary of State, Member of the General Assembly and Representative in the Congress of the United States, shall be filled by appointment by the Governor.

§ 2. Ineligible persons – Nepotism.

The Governor, ~~Lieutenant Governor and Acting Governor~~ Secretary of State, President of the Senate, and Speaker of the House of Representatives shall be ineligible for appointment to fill any vacancies occurring or any office or position created, and resignation shall not remove such ineligibility. Husbands and wives of such officers, and relatives of such officers, or of their husbands and wives within the fourth degree of

consanguinity or affinity, shall likewise be ineligible. No person appointed under Section 1 shall be eligible for appointment or election to succeed himself or herself.

SECTION 10. Section 1 of Amendment 56 of the Arkansas Constitution is repealed.

~~§ 1. Executive department—Composition.~~

~~The Executive Department of this State shall consist of a Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands, all of whom shall keep their offices at the seat of government, and hold their offices for the term of two (2) years, and until their successors are elected and qualified.~~

SECTION 11. Section 1 of Amendment 63 to the Arkansas Constitution is repealed.

~~§ 1. Executive Department—Term of office.~~

~~The Executive Department of this State shall consist of a Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General and Commissioner of State Lands, all of whom shall keep their offices at the seat of government, and hold their offices for the term of four (4) years, and until their successors are elected and qualified.~~

SECTION 12. Section 2 of Amendment 70 to the Arkansas Constitution is amended to read as follows:

§ 2. Additional Constitutional amendments authorized.

In addition to the three (3) amendments to the Constitution allowed pursuant to Article 19, § 22, either branch of the General Assembly at a regular session thereof may propose an amendment to the Constitution to change the salaries for the offices of Governor, ~~Lieutenant Governor,~~ Attorney General, Secretary of State, Treasurer of State, Commissioner of State Lands, and Auditor of State and for members of the General Assembly. If the same be agreed to by a majority of all members elected to each house, such proposed amendment shall be entered on the journals with the yeas and nays, and published in at least one (1) newspaper in each county, where a newspaper is published, for six (6) months immediately preceding the next general election for Senators and Representatives, at which time the same

shall be submitted to the electors of the State for approval or rejection. If a majority of the electors voting at such election adopt the amendment, the same shall become a part of this Constitution. Only one (1) amendment to the Constitution may be referred pursuant to this section.

SECTION 13. Section 1 of Amendment 73 of the Arkansas Constitution is amended to read as follows:

§ 1. Executive Branch.

(a) The Executive Department of this State shall consist of a Governor, ~~Lieutenant Governor~~, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands, all of whom shall keep their offices at the seat of government, and hold their offices for the term of four (4) years, and until their successors are elected and qualified.

(b) No elected officials of the Executive Department of this State may serve in the same office more than two (2) ~~such four-year~~ four-year terms.

(c) No person shall be eligible to the office of Governor or Secretary of State except a citizen of the United States, who shall have attained the age of thirty (30 years), and shall have been a resident of the state of Arkansas for seven (7) years.

SECTION 14. Section 13 of Amendment 80 of the Arkansas Constitution is amended to read as follows:

§ 13. Assignment of special and retired judges.

(A) If a Supreme Court Justice is disqualified or temporarily unable to serve, the Chief Justice shall certify the fact to the Governor, who within thirty (30) days thereafter shall commission a Special Justice, unless the time is extended by the Chief Justice upon a showing by the Governor that, in spite of the exercise of diligence, additional time is needed. If the Governor fails to commission a Special Justice within thirty (30) days, or within any extended period granted by the Chief Justice, the ~~Lieutenant Governor~~ Secretary of State shall commission a Special Justice.

(B) If a Judge of the Court of Appeals is disqualified or temporarily unable to serve, the Chief Judge shall certify the fact to the Chief Justice who shall commission a Special Judge.

(C) If a Circuit or District Judge is disqualified or temporarily

unable to serve, or if the Chief Justice shall determine there is other need for a Special Judge to be temporarily appointed, a Special Judge may be assigned by the Chief Justice or elected by the bar of that Court, under rules prescribed by the Supreme Court, to serve during the period of temporary disqualification, absence or need.

(D) In naming Special Justices and Judges, the Governor or the Chief Justice may commission, with their consent, retired Justices or Judges, active Circuit or District Judges, or licensed attorneys.

(E) Special and retired Justices and Judges selected and assigned for temporary judicial service shall meet the qualifications of Justices or Judges of the Court to which selected and assigned.

(F) Special and retired judges shall be compensated as provided by law.

SECTION 15. EFFECTIVE DATE. (a) This amendment is effective on and after January 1, 2019.

(b) A person shall not be elected to the office of Lieutenant Governor at the 2018 general election.

SECTION 16. BALLOT TITLE AND POPULAR NAME. When this proposed amendment is submitted to the electors of this state on the general election ballot:

(1) The title of this Joint Resolution shall be the ballot title; and

(2) The popular name shall be "An Amendment to the Arkansas Constitution to Abolish the Office of Lieutenant Governor on January 1, 2019".