

State of Arkansas

96th General Assembly

Regular Session, 2027

A Bill

SENATE BILL ____

By: Joshua P. Irby

For An Act To Be Entitled

AN ACT TO ESTABLISH A NONPARTISAN PRIMARY ELECTION SYSTEM FOR PUBLICLY FUNDED ELECTIONS IN ARKANSAS; TO INCREASE VOTER PARTICIPATION AND CHOICE; TO ENSURE FAIRNESS AND TRANSPARENCY IN THE ELECTORAL PROCESS.

Subtitle

TO CREATE THE FAIR AND OPEN PRIMARIES ACT; AND TO IMPLEMENT A NONPARTISAN OPEN PRIMARY SYSTEM FOR STATE AND LOCAL ELECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. TITLE.

This act shall be known and may be cited as the *“Fair and Open Primaries Act.”*

SECTION 2. FINDINGS AND PURPOSE.

(a) The General Assembly finds that:

1. Public elections are funded by the taxpayers of Arkansas and must serve the interests of all eligible voters;
2. Partisan primaries, whether open or closed, do not serve all eligible voters and undermine confidence in the fairness of the electoral system;
3. Arkansas voters deserve a transparent and inclusive process that encourages broader participation, fosters accountability, and empowers all citizens to choose their representatives;
4. Implementing a single nonpartisan open primary will increase voter choice, reduce polarization, and ensure that the electoral process reflects the will of the people rather than that of party insiders.

Joshua Irby
State Senate – District 16
Paid for by Joshua Irby

SECTION 3. NONPARTISAN PRIMARY SYSTEM ESTABLISHED.

- (a) For all state, district, county, and municipal offices subject to partisan primary elections, a single nonpartisan open primary shall be conducted.
- (b) All candidates for a given office shall appear on the same primary ballot, regardless of political party affiliation or non-affiliation.
- (c) All qualified electors, regardless of party registration or non-registration, may vote in any such nonpartisan primary.
- (d) The two (2) candidates receiving the highest number of votes in the primary shall advance to the general election, regardless of party affiliation or lack thereof.
- (e) In the event that only two (2) candidates file for an office, no primary shall be held, and both candidates shall appear on the general election ballot.

SECTION 4. ELECTION ADMINISTRATION.

- (a) The State Board of Election Commissioners shall promulgate rules necessary to implement the nonpartisan primary system established by this act.
- (b) The Secretary of State shall ensure that ballots are designed and presented in a manner that treats all candidates equally and does not imply party endorsement or preference by the state.
- (c) Sample ballots, voter education materials, and official election resources shall reflect the nonpartisan nature of the primary system.
- (d) Political parties may continue to endorse candidates and conduct internal party processes, but no such processes shall be taxpayer-funded or administered by the state or county election officials.
- (e) A candidate may choose to have a party preference displayed next to their name on the ballot, provided the preference is clearly labeled as the candidate's own declaration and does not constitute an official endorsement by the state or any political party.
- (f) The ballot shall include a disclaimer stating: "Party preference is based on the candidate's declaration and does not imply endorsement by any political party."

SECTION 5. BALLOT ACCESS – FILING FEES AND SIGNATURE ALTERNATIVES.

- (a) A candidate for public office may qualify for the nonpartisan open primary ballot by either:
 - 1. Paying a filing fee in the following amounts:

- A. Two percent (2%) of the annual salary for the office sought, for statewide constitutional or federal offices;
 - B. One percent (1%) of the annual salary for all other state, district, county, municipal, or school board offices.
2. Submitting a nomination petition containing valid signatures equal to one percent (1%) of the total number of registered voters eligible to vote for the office being sought, based on the most recent certified voter registration data.
- (b) The State Board of Election Commissioners shall promulgate rules for calculating salaries, verifying signatures, and ensuring uniform application of these requirements.
- (c) No political party or affiliated organization shall condition a candidate's appearance on the official nonpartisan primary ballot on the payment of any party-imposed filing fee or financial contribution.
- (d) Political parties may continue to conduct internal endorsement processes, including through private conventions or other lawful means, provided these activities are separate from and not publicly funded or administered through state or local election officials.
- (e) All filing fee revenue collected under this act shall be deposited into the State Election Fund and used solely for the administration of elections.

SECTION 6. APPLICABILITY.

- (a) This act shall apply to all publicly funded primary elections held after January 1, 2028.
- (b) This act shall not apply to federal primary elections unless:
- 1. Authorized by federal statute;
 - 2. Affirmed by a judicial ruling of competent jurisdiction; or
 - 3. Determined to be constitutionally permissible under federal law by the Attorney General of Arkansas in consultation with the Attorney General of the United States or applicable federal guidance.
- (c) Upon such authorization or ruling as outlined in subsection (b), the provisions of this act shall apply to all federal primary elections conducted in Arkansas, including those for United States Senate and United States House of Representatives, without the need for further legislative action, provided such implementation does not conflict with superseding federal law or court order.
- (d) Nothing in this act shall be construed to prohibit political parties from nominating candidates

through private conventions or other lawful means, provided such nominations are not conducted as publicly funded elections.

SECTION 7. SEVERABILITY.

If any provision of this act or its application is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.