

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.C.R. 2055

(Reference to printed resolution)

1 Page 1, before line 1, insert:

2 "Whereas, state legislatures have complete authority over
3 presidential elections granted by way of article II, section 1, clause 2,
4 Constitution of the United States, and the full and complete plenary
5 authority granted to the state legislatures provides that each state shall
6 appoint, through their legislature, a number of electors, equal to the
7 whole number of senators and representatives to which the state may be
8 entitled in the congress; and

9 Whereas, the Arizona legislature wishes to declare its full and
10 complete plenary authority over the manner of the presidential election
11 that is granted to it in article II, section 1, clause 2, Constitution of
12 the United States; and

13 Whereas, history has recently favored the voters themselves voting
14 for presidential electors. The state has the full and complete authority
15 to change the manner of the presidential election at any time and can take
16 back the power to change its manner. The right of the legislature to
17 resume the power of choosing the presidential electors at any time, which
18 constitutes changing the manner of the election, can neither be taken away
19 nor abdicated; and

20 Whereas, each successive state legislature has exclusive power to
21 appoint the presidential electors, independent of any previous legislature,
22 and it may select the electors itself, which was the manner used by state
23 legislatures in several states for years after the establishment of our
24 Constitution: the time, manner and place can be changed at any time; and

25 Whereas, the last two elections have been riddled with controversy
26 and lawsuits with rules, forms and procedures of the election broken that
27 has led to low public confidence in how elections are run; and public
28 distrust in our elections has been steadily declining and no significant
29 change in election security has been implemented since 2020 to protect the

1 people's presidential vote in 2024; and the only way to protect the
2 people's presidential vote in 2024 is to control the manner of its
3 election; and

4 Whereas, Colorado, with nine electors, and Maine, with four electors,
5 have removed a republican candidate from the ballot and are unlawfully
6 taking away the people's voice to vote for whom they want to represent them
7 in the executive branch as president of the United States; and

8 Whereas, the supreme court of the United States has repeatedly agreed
9 that the state legislature has the full and complete authority regarding
10 presidential electors: Selecting the manner for appointing is plenary; it
11 may, if it so chooses, select the electors itself, which indeed was the
12 manner used by state legislatures in several States for many years after
13 the framing of our Constitution; and, after granting the franchise in the
14 special context of article II, can take back the power to appoint electors.
15 McPherson v. Blacker, 146 U.S. 1, 35 (1892). "There is no doubt of the
16 right of the legislature to resume the power at any time, for it can
17 neither be taken away nor abdicated" (Senate Rep. 1st Sess. 43rd Cong. No.
18 395); and

19 Whereas, Moore v. Harper, 600 U.S. 1 (2023) distinctly shows the
20 state legislatures' plenary authority by stating with reference to
21 McPherson v. Blacker, 146 U.S. 1 (1892), "We upheld that decision,
22 explaining that in choosing Presidential electors, the Clause "leaves it to
23 the legislature exclusively to define the method of affecting the object."
24 146 U.S., at 27."; and, Moore v. Harper says the legislative federal
25 function to appoint electors is a Federal function, not a lawmaking
26 function, and protected by article II, section 1, clause 2, Constitution of
27 the United States; and

28 Whereas, the United State supreme court made it very clear that the
29 "elections clause" and the president of the United States electors clause
30 are both rooted in history, holding that historical practice is the most
31 "pertinent" factor they look at and that the supreme court of the United
32 States acknowledged that legislatures appointed electors from 1788 to 1876;
33 and

1 Whereas, Ray v. Blair, 343 U.S. 214 (1952) states "The presidential
2 electors exercise a federal function in balloting for President and
3 Vice-President, but they are not federal officers.... they act by authority
4 of the state, that, in turn, receives its authority from the federal
5 constitution." 343 U.S. at 224-225; and

6 Whereas, Hawke v. Smith, 253 U.S. 221 (1920) states "It is true the
7 power to legislate in the enactment of the laws of a state is derived from
8 the people of the state. But the power to ratify a proposed amendment to
9 the federal Constitution has its source in the federal Constitution. The
10 act of ratification by the state derives its authority from the federal
11 Constitution, to which the state and its people have alike assented",
12 253. U.S. at 230, showing the legislature does not need permission from
13 anyone because it is not done by legislation. It is a Federal function.
14 Hawke v. Smith held that legislatures are not bound by state laws and
15 regulations to exercise unique federal functions; and

16 Whereas, Bush v. Gore, 531 U.S. 98 (2000), states the individual
17 citizen has no federal constitutional right to vote for electors for the
18 President of the United States unless and until the state legislature
19 chooses a statewide election as the means to implement its power to appoint
20 members of the electoral college, 531 U.S. at 104; and

21 Whereas, the supremacy clause of the Constitution of the United
22 States supersedes any statute in this state that says a statewide popular
23 vote is the means to choose electors because the Arizona legislature has
24 plenary authority granted in the United States Constitution under
25 article II, section 1, clause 2; and

26 Whereas, there is nothing in the Constitution of Arizona that
27 conflicts with the Constitution of the United States to prohibit or
28 constrain the Arizona legislature from using its article II, section 1,
29 clause 2 authority to change the manner of the presidential election for
30 2024.

31 Therefore"

1 Page 1, strike everything after the resolving clause and insert:

2 "1. To change the manner of the presidential election by appointing
3 the eleven presidential electors to the republican primary winner to offset
4 the removal of a republican candidate from the ballot in Colorado and
5 Maine.

6 2. That Governor Hobbs sign the election reform measures listed
7 below, and if not, the presidential electors be appointed to protect the
8 2024 presidential election from another maladministered and illegally run
9 election.

10 3. That the 2024 presidential election reform bill should include
11 the following:

12 (a) Compliance with article VII, section 11, Constitution of
13 Arizona, by having an election on election day only.

14 (b) A vote by precincts with identification and proof of
15 citizenship, a hand count of ballots in each precinct, ballot results
16 reported from precincts with all signatures verified and without the use of
17 machines and without mailed-in ballots except for absentee ballots.

18 4. That the Secretary of State of the State of Arizona transmit a
19 copy of this Resolution to the Governor of Arizona."

20 Amend title to conform

RACHEL JONES

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