

Resolution

Assembly Joint Resolution No. 2—Assemblymen Araujo; Elliot Anderson, Bilbray-Axelrod, Brooks, Carrillo, Diaz, Joiner, Monroe-Moreno, Ohrenschall, Sprinkle, Swank, Thompson and Yeager

Joint Sponsors: Senators Parks; Cancela, Ford, Manendo, Ratti, Segerblom and Woodhouse

FILE NUMBER 17

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to require the recognition of all marriages regardless of gender.

Legislative Counsel's Digest:

Section 21 of Article 1 of the Nevada Constitution provides that only a marriage between a male and a female person may be recognized and given effect in this State. The United States Supreme Court, however, held in 2015 that the right to marry is guaranteed by the Fourteenth Amendment to the United States Constitution and that same-sex couples may not be deprived of that right. *See Obergefell v. Hodges*, 135 S. Ct. 2584 (2015). Under the Supremacy Clause of the United States Constitution, federal constitutional law supersedes state constitutional law in most cases. (U.S. Const. Art. VI, cl. 2) As a result, Section 21 of Article 1 of the Nevada Constitution is not enforceable.

This resolution amends Section 21 of Article 1 of the Nevada Constitution to require the State of Nevada and its political subdivisions to recognize all marriages regardless of gender. In addition, this resolution establishes the rights of religious organizations and members of the clergy to refuse to perform marriages on the basis of gender or other factors, and specifically provides that a person does not have a right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage. This resolution further provides that all legally valid marriages must be treated equally under the law.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 21 of Article 1 of the Nevada Constitution be amended to read as follows:

~~{Sec:}~~ *Sec. 21. ~~{Limitation on recognition}~~ Recognition of marriage. ~~{Only a marriage between a male and female person shall be recognized and given effect in this state.}~~*

1. The State of Nevada and its political subdivisions shall recognize marriages and issue marriage licenses to couples regardless of gender.

2. Religious organizations and members of the clergy have the right to refuse to solemnize a marriage, and no person has the right to make any claim against a religious organization or member of the clergy for such a refusal.

3. All legally valid marriages must be treated equally under the law.

Legislative Counsel Bureau's Draft Ballot Question Language
for Assembly Joint Resolution No. 2 of the 79th Session
for Consideration by the
Legislative Commission

QUESTION NO. 2

Amendment to the *Nevada Constitution*

Assembly Joint Resolution No. 2 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to: (1) remove an existing provision recognizing marriage as only between a male person and a female person and require the State of Nevada and its political subdivisions to recognize marriages of and issue marriage licenses to couples, regardless of gender; (2) require all legally valid marriages to be treated equally under the law; and (3) establish a right for religious organizations and clergy members to refuse to perform a marriage and provide that no person is entitled to make any claim against them for exercising that right?

Yes ☐ No ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure would remove an existing provision in the *Nevada Constitution* which provides that only a marriage between a male person and a female person may be recognized and given effect in Nevada. Based on a 2015 United States Supreme Court decision, this state constitutional provision is currently preempted by federal constitutional law and is therefore unenforceable.

In addition, based on the 2015 U.S. Supreme Court decision, each State must: (1) issue marriage licenses to same-sex couples on the same terms and conditions as opposite-sex couples; and (2) recognize same-sex marriages validly performed in another state. This ballot measure would amend the *Nevada Constitution* to require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law.

Finally, based on a 2018 U.S. Supreme Court decision, a member of the clergy who objects to same-sex marriages on moral and religious grounds cannot be compelled to perform same-sex marriages. This ballot measure would amend the *Nevada Constitution* to provide that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make any claim against a religious organization or member of the clergy for refusing to perform a marriage.

A “Yes” vote would amend the *Nevada Constitution* to: (1) remove the currently preempted and therefore unenforceable provision stating that only a marriage between a male person and a female person may be recognized and given effect in Nevada; (2) require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage

licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law; and (3) provide that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

A “No” vote would keep the currently preempted and therefore unenforceable provision in the *Nevada Constitution* stating that only a marriage between a male person and a female person may be recognized and given effect in this State and would not add a provision in the *Nevada Constitution* providing that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

DIGEST—An existing provision in the *Nevada Constitution* provides that only a marriage between a male person and a female person may be recognized and given effect in this State. (Nev. Const. Art. 1, § 21) However, in a 2015 decision, the U.S. Supreme Court held that the right to marry is guaranteed by the Fourteenth Amendment to the *United States Constitution* and that same-sex couples may not be deprived of that right. (*Obergefell v. Hodges*, 135 S. Ct. 2584 (2015)) Under the Supremacy Clause of the *United States Constitution*, federal constitutional law supersedes and preempts conflicting state constitutional law. (U.S. Const. Art. VI, cl. 2) As a result, because the existing provision in the *Nevada Constitution* conflicts with federal constitutional law, it is currently preempted by federal constitutional law and is therefore unenforceable. This ballot measure would remove that unenforceable provision from the *Nevada Constitution*.

In the 2015 decision, the U.S. Supreme Court determined that each State must: (1) issue marriage licenses to same-sex couples on the same terms and conditions as opposite-sex couples; and (2) recognize same-sex marriages validly performed in another state. (*Obergefell v. Hodges*, 135 S. Ct. 2584 (2015)) This ballot measure would amend the *Nevada Constitution* to require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law.

Existing law authorizes licensed, ordained, or appointed ministers and certain other church or religious officials to obtain and renew a certificate of permission to perform marriages. (NRS 122.062 through 122.073) In a 2018 decision, the U.S. Supreme Court stated that it can be assumed that a member of the clergy who objects to same-sex marriages on moral and religious grounds could not be compelled to perform same-sex marriages without denial of the clergy member’s right to the free exercise of religion guaranteed by the First Amendment to the *United States Constitution*. (*Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm’n*, 138 S. Ct. 1719 (2018)) This ballot measure would provide that religious organizations and members of the clergy have the right to refuse to perform marriages, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

ARGUMENTS FOR PASSAGE

With the U.S. Supreme Court’s decision in *Obergefell v. Hodges*, same-sex marriage has been legal across the country since 2015. Accordingly, the unenforceable provision in the *Nevada Constitution* that recognizes only a marriage between a man and a woman should be removed. Eliminating this discriminatory language and requiring the State of Nevada and its political subdivisions to recognize all legal marriages regardless of gender will ensure marriage equality for all Nevadans.

Question 2 also preserves the constitutional right to religious freedom. Recognizing a same-sex couple’s right to marry in the *Nevada Constitution* would ensure every couple the freedom to marry. At the same time, Question 2 also allows religious organizations and clergy members the freedom to choose whether or not to perform a marriage.

Although same-sex couples may enter into domestic partnerships in Nevada, a domestic partnership is not equal to a marriage. Unlike a marriage, a Nevada domestic partnership may or may not be recognized by other states. Moreover, the federal government does not grant domestic partnerships the same rights and benefits as marriage, including family-related Social Security benefits and joint filing of federal income tax returns.

Remove discriminatory and unenforceable language from the *Nevada Constitution* and replace it with provisions guaranteeing equal marriage rights for all Nevadans. Vote “yes” on Question 2.

ARGUMENTS AGAINST PASSAGE

At the general elections in both 2000 and 2002, Nevada voters ratified an amendment to the *Nevada Constitution* by approving an initiative petition—proposed by the people of Nevada—that defines marriage as being only between a man and a woman. This ballot question—proposed by the Legislature—asks voters to change the *Nevada Constitution* based on a 5-4 decision of the U.S. Supreme Court. If the U.S. Supreme Court were to overturn this decision, the definition of marriage currently in the *Nevada Constitution* would again be the controlling law of Nevada. The *Nevada Constitution* should reflect the will of the people of Nevada and not be changed in reaction to a court decision that can be overturned.

Recognizing same-sex marriage in the *Nevada Constitution* raises serious questions about the right to religious freedom guaranteed to every Nevadan. Traditionally, for some religions, marriage has been viewed as an institution typically recognizing only the union between one man and one woman. For some people, this traditional definition of marriage remains a core part of their religious beliefs, and they hold genuine and sincere religious convictions that same-sex marriage is incompatible with and undermines the sanctity of traditional marriage.

There is no need to change the traditional definition of marriage to include same-sex couples. Domestic partnerships are a viable option for same-sex couples in Nevada. These partnerships were enacted under the current constitutional provisions and already afford many of the rights of marriage, including community property, inheritance without a will, and hospital visitation. The State has the ability to expand these rights, and therefore, approval of Question 2 is not necessary.

Uphold the traditional definition of marriage as a union between one man and one woman that currently exists in the *Nevada Constitution*. Vote “no” on Question 2.

FISCAL NOTE

Financial Impact—No

The *Nevada Constitution* provides that only a marriage between a male person and a female person may be recognized and given effect in Nevada. However, based on the United States Supreme Court’s ruling in *Obergefell v. Hodges*, marriages are currently recognized by the State and local governments in Nevada regardless of gender, irrespective of the language in the *Nevada Constitution*. Thus, there is no anticipated financial impact upon the State or local governments if Question 2 is approved by the voters.

Legislative Counsel Bureau's Draft Ballot Question Language
for Assembly Joint Resolution No. 2 of the 79th Session
for Consideration by the
Legislative Commission
(With Mark Up)

QUESTION NO. 2

Amendment to the *Nevada Constitution*

Assembly Joint Resolution No. 2 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to: (1) remove an existing provision ~~that only a recognizing marriage as only~~ between a male person and a female person ~~may be recognized and given effect in Nevada;~~ (2) ~~require that~~ and require the State of Nevada and its political subdivisions ~~must to~~ recognize marriages of and issue marriage licenses to couples, regardless of gender; ~~and that (2) require~~ all legally valid marriages ~~must to~~ be treated equally under the law; and (3) ~~provide that~~ establish a right for religious organizations and clergy members ~~of the clergy have the right~~ to refuse to perform a marriage; and provide that no person ~~has the right is entitled~~ to make any claim against ~~a religious organization or member of the clergy for refusing to perform a marriage?~~ them for exercising that right?

Yes ☐

No ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure would remove an existing provision in the *Nevada Constitution* which provides that only a marriage between a male person and a female person may be recognized and given effect in Nevada. Based on a 2015 United States Supreme Court decision, this state constitutional provision is currently preempted by federal constitutional law and is therefore unenforceable.

In addition, based on the 2015 U.S. Supreme Court decision, each State must: (1) issue marriage licenses to same-sex couples on the same terms and conditions as opposite-sex couples; and (2) recognize same-sex marriages validly performed in another state. This ballot measure would amend the *Nevada Constitution* to require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law.

Finally, based on a 2018 U.S. Supreme Court decision, a member of the clergy who objects to same-sex marriages on moral and religious grounds cannot be compelled to perform same-sex marriages. This ballot measure would amend the *Nevada Constitution* to provide that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make any claim against a religious organization or member of the clergy for refusing to perform a marriage.

A “Yes” vote would amend the *Nevada Constitution* to: (1) remove the currently preempted and therefore unenforceable provision stating that only a marriage between a male person

and a female person may be recognized and given effect in Nevada; (2) require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law; and (3) provide that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

A “No” vote would keep the currently preempted and therefore unenforceable provision in the *Nevada Constitution* stating that only a marriage between a male person and a female person may be recognized and given effect in this State and would not add a provision in the *Nevada Constitution* providing that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

DIGEST—An existing provision in the *Nevada Constitution* provides that only a marriage between a male person and a female person may be recognized and given effect in this State. (Nev. Const. Art. 1, § 21) However, in a 2015 decision, the U.S. Supreme Court held that the right to marry is guaranteed by the Fourteenth Amendment to the *United States Constitution* and that same-sex couples may not be deprived of that right. (*Obergefell v. Hodges*, 135 S. Ct. 2584 (2015)) Under the Supremacy Clause of the *United States Constitution*, federal constitutional law supersedes and preempts conflicting state constitutional law. (U.S. Const. Art. VI, cl. 2) As a result, because the existing provision in the *Nevada Constitution* conflicts with federal constitutional law, it is currently preempted by federal constitutional law and is therefore unenforceable. This ballot measure would remove that unenforceable provision from the *Nevada Constitution*.

In the 2015 decision, the U.S. Supreme Court determined that each State must: (1) issue marriage licenses to same-sex couples on the same terms and conditions as opposite-sex couples; and (2) recognize same-sex marriages validly performed in another state. (*Obergefell v. Hodges*, 135 S. Ct. 2584 (2015)) This ballot measure would amend the *Nevada Constitution* to require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law.

Existing law authorizes licensed, ordained, or appointed ministers and certain other church or religious officials to obtain and renew a certificate of permission to perform marriages. (NRS 122.062 through 122.073) In a 2018 decision, the U.S. Supreme Court stated that it can be assumed that a member of the clergy who objects to same-sex marriages on moral and religious grounds could not be compelled to perform same-sex marriages without denial of the clergy member’s right to the free exercise of religion guaranteed by the First Amendment to the *United States Constitution*. (*Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm’n*, 138 S. Ct. 1719 (2018)) This ballot measure would provide that religious organizations and members of the clergy have the right to refuse to perform marriages, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

ARGUMENTS FOR PASSAGE

With the U.S. Supreme Court's decision in *Obergefell v. Hodges*, same-sex marriage has been legal across the country since 2015. Accordingly, the unenforceable provision in the *Nevada Constitution* that recognizes only a marriage between a man and a woman should be removed. Eliminating this discriminatory language and requiring the State of Nevada and its political subdivisions to recognize all legal marriages regardless of gender will ensure marriage equality for all Nevadans.

Question 2 also preserves the constitutional right to religious freedom. Recognizing a same-sex couple's right to marry in the *Nevada Constitution* would ensure every couple the ~~opportunity to solemnize their marriage in the tradition of their choosing.~~ freedom to marry. At the same time, Question 2 also allows religious organizations and clergy ~~members of the clergy~~ the freedom to choose whether or not to perform a marriage.

Although same-sex couples may enter into domestic partnerships in Nevada, a domestic partnership is not equal to a marriage. Unlike a marriage, a Nevada domestic partnership may or may not be recognized by other states. Moreover, the federal government does not grant domestic partnerships the same rights and benefits as marriage, including family-related Social Security benefits and joint filing of federal income tax returns.

Remove discriminatory and unenforceable language from the *Nevada Constitution* and replace it with provisions guaranteeing equal marriage rights for all Nevadans. Vote "yes" on Question 2.

ARGUMENTS AGAINST PASSAGE

At the general elections in both 2000 and 2002, Nevada voters ~~amended~~ ratified an amendment to the *Nevada Constitution* by approving an initiative petition—proposed by the people of Nevada—that defines marriage as being only between a man and a woman. This ballot question—proposed by the Legislature—asks voters to change the *Nevada Constitution* based on a ~~narrowly decided 5-4 decision of the~~ U.S. Supreme Court. ~~ease.~~ If the U.S. Supreme Court were to overturn this decision, the definition of marriage currently in the Nevada Constitution would again be the controlling law of Nevada. The *Nevada Constitution* should reflect the will of the people of Nevada and not be changed in reaction to a court decision that can be overturned.

Recognizing same-sex marriage in the *Nevada Constitution* raises serious questions about the right to religious freedom guaranteed to every Nevadan. ~~Historically, Traditionally, for some religions,~~ marriage has been viewed as ~~a religious an~~ institution typically recognizing only the union between one man and one woman. For ~~many~~ some people, this traditional definition of marriage remains a core part of their religious beliefs. ~~—Same-sex and they hold genuine and sincere religious convictions that same-sex~~ marriage is incompatible with these beliefs and undermines the sanctity of traditional marriage.

There is no need to change the traditional definition of marriage to include same-sex couples. Domestic partnerships are a viable option for same-sex couples in Nevada. These partnerships were enacted under the current constitutional provisions and already afford many of the rights of

marriage, including community property, inheritance without a will, and hospital visitation. The State has the ability to expand these rights, and therefore, approval of Question 2 is not necessary.

Uphold the traditional definition of marriage as a union between one man and one woman that currently exists in the *Nevada Constitution*. Vote “no” on Question 2.

FISCAL NOTE

Financial Impact—No

The *Nevada Constitution* provides that only a marriage between a male person and a female person may be recognized and given effect in Nevada. However, based on the United States Supreme Court’s ruling in *Obergefell v. Hodges*, marriages are currently recognized by the State and local governments in Nevada regardless of gender, irrespective of the language in the *Nevada Constitution*. Thus, there is no anticipated financial impact upon the State or local governments if Question 2 is approved by the voters.

Legislative Counsel Bureau's Draft Ballot Question Language
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Consideration by the Public During the
Public Comment Period

QUESTION NO. 2

Amendment to the *Nevada Constitution*

Assembly Joint Resolution No. 2 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to: (1) remove an existing provision that only a marriage between a male person and a female person may be recognized and given effect in Nevada; (2) require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law; and (3) provide that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make any claim against a religious organization or member of the clergy for refusing to perform a marriage?

Yes ☐

No ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure would remove an existing provision in the *Nevada Constitution* which provides that only a marriage between a male person and a female person may be recognized and given effect in Nevada. Based on a 2015 United States Supreme Court decision, this state constitutional provision is currently preempted by federal constitutional law and is therefore unenforceable.

In addition, based on the 2015 U.S. Supreme Court decision, each State must: (1) issue marriage licenses to same-sex couples on the same terms and conditions as opposite-sex couples; and (2) recognize same-sex marriages validly performed in another state. This ballot measure would amend the *Nevada Constitution* to require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law.

Finally, based on a 2018 U.S. Supreme Court decision, a member of the clergy who objects to same-sex marriages on moral and religious grounds cannot be compelled to perform same-sex marriages. This ballot measure would amend the *Nevada Constitution* to provide that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make any claim against a religious organization or member of the clergy for refusing to perform a marriage.

A “Yes” vote would amend the *Nevada Constitution* to: (1) remove the currently preempted and therefore unenforceable provision stating that only a marriage between a male person and a female person may be recognized and given effect in Nevada; (2) require that the State

of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law; and (3) provide that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

A “No” vote would keep the currently preempted and therefore unenforceable provision in the *Nevada Constitution* stating that only a marriage between a male person and a female person may be recognized and given effect in this State and would not add a provision in the *Nevada Constitution* providing that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

DIGEST—An existing provision in the *Nevada Constitution* provides that only a marriage between a male person and a female person may be recognized and given effect in this State. (Nev. Const. Art. 1, § 21) However, in a 2015 decision, the U.S. Supreme Court held that the right to marry is guaranteed by the Fourteenth Amendment to the *United States Constitution* and that same-sex couples may not be deprived of that right. (*Obergefell v. Hodges*, 135 S. Ct. 2584 (2015)) Under the Supremacy Clause of the *United States Constitution*, federal constitutional law supersedes and preempts conflicting state constitutional law. (U.S. Const. Art. VI, cl. 2) As a result, because the existing provision in the *Nevada Constitution* conflicts with federal constitutional law, it is currently preempted by federal constitutional law and is therefore unenforceable. This ballot measure would remove that unenforceable provision from the *Nevada Constitution*.

In the 2015 decision, the U.S. Supreme Court determined that each State must: (1) issue marriage licenses to same-sex couples on the same terms and conditions as opposite-sex couples; and (2) recognize same-sex marriages validly performed in another state. (*Obergefell v. Hodges*, 135 S. Ct. 2584 (2015)) This ballot measure would amend the *Nevada Constitution* to require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law.

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ARGUMENTS FOR PASSAGE

With the U.S. Supreme Court’s decision in *Obergefell v. Hodges*, same-sex marriage has been legal across the country since 2015. Accordingly, the unenforceable provision in the *Nevada Constitution* that recognizes only a marriage between a man and a woman should be removed. Eliminating this discriminatory language and requiring the State of Nevada and its political subdivisions to recognize all legal marriages regardless of gender will ensure marriage equality for all Nevadans.

Question 2 also preserves the constitutional right to religious freedom. Recognizing a same-sex couple’s right to marry in the *Nevada Constitution* would ensure every couple the opportunity to solemnize their marriage in the tradition of their choosing. At the same time, Question 2 also allows religious organizations and members of the clergy to choose whether or not to perform a marriage.

Although same-sex couples may enter into domestic partnerships in Nevada, a domestic partnership is not equal to a marriage. Unlike a marriage, a Nevada domestic partnership may or may not be recognized by other states. Moreover, the federal government does not grant domestic partnerships the same rights and benefits as marriage, including family-related Social Security benefits and joint filing of federal income tax returns.

Remove discriminatory and unenforceable language from the *Nevada Constitution* and replace it with provisions guaranteeing equal marriage rights for all Nevadans. Vote “yes” on Question 2.

ARGUMENTS AGAINST PASSAGE

At the elections in both 2000 and 2002, Nevada voters amended the *Nevada Constitution* by approving an initiative petition—proposed by the people of Nevada—that defines marriage as being only between a man and a woman. This ballot question—proposed by the Legislature—asks voters to change the *Nevada Constitution* based on a narrowly decided U.S. Supreme Court case. The *Nevada Constitution* should reflect the will of the people of Nevada and not be changed in reaction to a court decision that can be overturned.

Recognizing same-sex marriage in the *Nevada Constitution* raises serious questions about the right to religious freedom guaranteed to every Nevadan. Historically, marriage has been viewed as a religious institution typically recognizing only the union between one man and one woman. For many people, this traditional definition of marriage remains a core part of their religious beliefs. Same-sex marriage is incompatible with these beliefs and undermines the sanctity of traditional marriage.

There is no need to change the traditional definition of marriage to include same-sex couples. Domestic partnerships are a viable option for same-sex couples in Nevada. These partnerships were enacted under the current constitutional provisions and already afford many of the rights of marriage, including community property, inheritance without a will, and hospital visitation. The State has the ability to expand these rights, and therefore, approval of Question 2 is not necessary.

Uphold the traditional definition of marriage as a union between one man and one woman that exists in the *Nevada Constitution*. Vote “no” on Question 2.

FISCAL NOTE

Financial Impact—No

The *Nevada Constitution* provides that only a marriage between a male person and a female person may be recognized and given effect in Nevada. However, based on the United States Supreme Court's ruling in *Obergefell v. Hodges*, marriages are currently recognized by the State and local governments in Nevada regardless of gender, irrespective of the language in the *Nevada Constitution*. Thus, there is no anticipated financial impact upon the State or local governments if Question 2 is approved by the voters.

PUBLIC COMMENT

Question 2

Assembly Joint Resolution No. 2 of the 79th Session

From: BallotQuestionFeedbackForm
To: [Guinan, Patrick](#); [Thornton, Diane](#)
Subject: Public Comment for 2020 Ballot Questions
Date: Tuesday, May 19, 2020 3:45:08 PM

Email from Jay Cafferata

AJR 2 Comments

While I am in support of the language of the "for" side of the ballot language - the against language has many inaccuracies and misleading statements. ARGUMENTS AGAINST PASSAGE At the elections in both 2000 and 2002, Nevada voters amended the Nevada Constitution by approving an initiative petition—proposed by the people of Nevada—that defines marriage as being only between a man and a woman. This ballot question—proposed by the Legislature—asks voters to change the Nevada Constitution based on a narrowly decided U.S. Supreme Court case. This language implies there was an error on the part of the Supreme Court – disparaging the value and respect of the Supreme Court and should be eliminated from this passage. The decision is the law of the United States of America. The Nevada Constitution should reflect the will of the people of Nevada and not be changed in reaction to a court decision that can be overturned. Any law can be overturned – historically, laws such as slavery and prohibition were over turned – this language is inflammatory and should be removed. It doesn't clarify the issue at hand. Recognizing same-sex marriage in the Nevada Constitution raises serious questions about the right to religious freedom guaranteed to every Nevadan. This is no longer an issue to be decided by Nevada – it has been decided at the Supreme court level – this is an example of trying to re-legislate the law that stands. And religious freedom is protected in the new language – this is inflammatory language and should be removed. Historically, marriage has been viewed as a religious institution typically recognizing only the union between one man and one woman. Historically, marriage was an exchange of property – female property. And many religions recognized polygamy for centuries - one man and many women. Other religions recognize child marriages, arranged marriages and forced marriage. And not all religions recognize marriage as this text suggests. Religious institutions do not make the laws in the state of Nevada. This is not about the law – it is about religious institutions and should be removed. The phrase “religious institutions” is vague and misleading – which religious institutions are involved – the same ones that created the crusades, the inquisition, the holocaust, the removal of indigenous people from their land in Nevada? This is inflammatory language and should be removed. For many people, this traditional definition of marriage remains a core part of their religious beliefs. Same-sex marriage is incompatible with these beliefs and undermines the sanctity of traditional marriage. Many people is misleading – some people believe this. The law recognizes everyone's right to practice any religion they prefer. Marriage is governed by laws that do not include the religious acceptance of that marriage. It is a legal relationship not tied to religion. The constitution of Nevada is about the law of marriage – not religion. This should be removed. There is no need to change the traditional definition of marriage to include same-sex couples. Domestic partnerships are a viable option for same-sex couples in Nevada. These partnerships were enacted under the current constitutional provisions and already afford many of the rights of marriage, including community property, inheritance without a will, and hospital visitation. As stated here many of the rights but not all the rights – thus creating

second class citizenship. This is clearly discriminatory against certain Nevadans and should be removed. The State has the ability to expand these rights, and therefore, approval of Question 2 is not necessary. Uphold the traditional definition of marriage as a union between one man and one woman that exists in the Nevada Constitution. Vote “no” on Question 2. There is no traditional definition of marriage – this should be removed. The fiscal note indicates that there will be no impact – however, if this language is not removed from the constitution, there will be additional costs. The state of Nevada paid over 1 million dollars to defend the one man to one woman marriage law before the Supreme Court’s decision. This will prevent any additional tax payer dollars spent on this issue that has been decided by the highest court in the land.

AJR 5 Comments

I support the comments made by the Nevada Faculty Alliance (NFA) is the independent statewide association of faculty at all eight institutions of the Nevada System of Higher Education (NSHE) as the proposed changes to the language of both for and against the current language.

SJR 1 Comments

SJR 3 Comments

Contact Information

Address:

City: Carson City

State: NV

Zip: 89701

Email:

From: Briana Escamilla
Sent: Wednesday, May 20, 2020 4:09 PM
To: Guinan, Patrick ; [Thornton, Diane](#)
Subject: Comments on AJR2 Ballot Language

Hello Patrick and Diane-

Please consider the suggested wording changes below to the AJR 2 ballot language.

- **Add language into Arguments for Passage (Paragraph 3)-** " Same-sex couples in Nevada pay taxes, vote, serve in the military and run small businesses. They work ~~hard~~ and pay into the same system as everyone else, and they should have the same freedom to marry that other couples have. Although same-sex couples may enter into domestic partnerships in Nevada, a domestic partnership is not equal to a marriage. Unlike a marriage, a Nevada domestic partnership may or may not be recognized by other states. Moreover, the federal government does not grant domestic partnerships the same rights and benefits as marriage, including family-related Social Security benefits and joint filing of federal income tax returns."
- **Add language into Arguments for Passage (Paragraph 3)-** "Nevada should always protect fundamental civil rights for all people and fight discrimination wherever it exists. This amendment removes discriminatory and unenforceable language from the Nevada Constitution and helps make sure Nevada ~~remains committed to protect ing~~ the civil rights ~~for~~ of all its citizens.~~Remove discriminatory and unenforceable language from the Nevada Constitution and replace it with provisions guaranteeing equal marriage rights for all Nevadans. Vote "yes" on Question 2."~~
- **Remove broad language from Arguments Against Passage (Paragraph 2) or rework that language entirely.** Currently, that paragraph makes broad claims that all religions and religious people oppose same sex marriage, which we know is not true- "Recognizing same-sex marriage in the Nevada Constitution raises serious questions about the right to religious freedom guaranteed to every Nevadan. Historically, ~~for some religions~~, marriage has been viewed as a religious institution typically recognizing only the union between one man and one woman. For ~~many~~ ~~some~~ people, this traditional definition of marriage remains a core part of their religious beliefs. ~~Some religions believe that~~ same-sex marriage is incompatible with these beliefs and undermines the sanctity of ~~their~~ traditional marriage ~~beliefs~~."

Thank you!

Briana Escamilla
She/ her/ hers
Nevada State Director
Human Rights Campaign

From: BallotQuestionFeedbackForm
To: [Guinan, Patrick](#); [Thornton, Diane](#)
Subject: Public Comment for 2020 Ballot Questions
Date: Tuesday, May 19, 2020 3:27:08 PM

Email from Melissa Rutter

AJR 2 Comments

I support this resolution. Any two people that wish to be joined legally should be allowed to do so. This topic seems to assume a sexuality preference, but there are many reasons to join someone and take care of each other. The State should simply recognize two people who wish to join and not be involved with questions of sexuality and the associated moral judgments.

AJR 5 Comments

I do not support this resolution. The Board of Regents focus on import issues regarding education. Putting these issues into the hands of people that do not specialize in this area could result in poor decisions.

SJR 1 Comments

I do not support this resolution. If meetings are supposed to be held twice a year and are not then that needs to be addressed outside of a constitutional change.

SJR 3 Comments

I do not support this resolution. I see no compelling reason to amend the constitution to detail these voting rights.

Contact Information

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From: BallotQuestionFeedbackForm
To: [Guinan, Patrick](#); [Thornton, Diane](#)
Subject: Public Comment for 2020 Ballot Questions
Date: Tuesday, May 19, 2020 4:26:53 PM

Email from Devon Snyder

AJR 2 Comments

I support the passage of this resolution

AJR 5 Comments

I do not support passage of this resolution.

SJR 1 Comments

SJR 3 Comments

Contact Information

Address:
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From: [Wayne Thorley](#)
To: [King, Julianne](#)
Cc: [Guinan, Patrick](#); [Thornton, Diane](#)
Subject: Ballot Questions
Date: Friday, May 8, 2020 10:04:34 PM

Julianne,

Thanks for giving me an opportunity to review the proposed condensation, explanation, digest, argument for and against, and fiscal note for 2020 ballot questions 1 through 4. After reviewing all the information provided, my only feedback concerns the length of the condensation (ballot question) for Questions 1 and 2. The condensation is the only part that appears on the actual ballot, and whether the person is voting on a machine or on a paper ballot, the condensations gets difficult to read if it is too long. The difficulty is not in the total number of words the voter has to read, but rather the narrow columns on the ballot in which the condensation language is presented to the voter.

We try to keep the condensation under 50 words, but I understand this is not always achievable given the complex nature of certain ballot questions. The condensation for both Question 1 and Question 2 is over 100 words long. If you have not done so already, it would be a good idea to review the condensation language for Questions 1 and 2 to see if there is a way to reduce the number of words used.

Have a good weekend!

Wayne Thorley

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