

# QUESTION NO. 10

Amendment to the Nevada Constitution

Assembly Joint Resolution No. 13 of the 72nd Session

## CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to change the provisions regarding special sessions of the Legislature to provide that a special session may be convened by a petition signed by two-thirds of the Legislature of each house; to limit the duration of special sessions of the Legislature to 20 calendar days; and to limit the matters which may be considered during a special session?

Yes.....

No.....

## EXPLANATION (Ballot Question)

The proposed amendment to the *Nevada Constitution* would allow the Legislature to call itself into a special session. The proposal would provide that a special session of the Legislature may be convened, on extraordinary occasions, by a petition signed by two-thirds of the members of each house of the Legislature. During any special session called by the Legislature or the Governor, the Legislature would be authorized only to consider matters for which it was called into session. Finally, this proposal would limit any special session to 20 calendar days.

Currently, language in Section 2 of Article 4 and Section 9 of Article 5 of the *Nevada Constitution* provides that only the Governor may call special sessions of the Legislature but does not limit the length of such sessions. The proposed amendment would add a new section to Article 4 and revise the existing language in both Articles 4 and 5 to provide that both the Legislature and the Governor may convene special sessions limited to 20 calendar days.

**A “Yes” vote would change the language in the *Nevada Constitution* to allow the Legislature to call itself into special session on extraordinary occasions and would limit the duration of special sessions to not more than 20 calendar days.**

**A “No” vote would allow the existing language to remain unchanged so that only the Governor may call special sessions and that special sessions not be limited in duration.**

## ARGUMENTS FOR PASSAGE

The *Nevada Constitution* establishes three co-equal branches of state government—Legislative, Executive and Judicial. The Legislative Branch has ultimate authority and responsibility to enact laws, subject to final approval by the Governor. However, Nevada’s existing constitutional language allows only the Governor to call the Legislature into special session. This limitation is

contrary to the constitutional provision that vests the lawmaking authority in the Legislature. The Legislature should be authorized to operate with a reasonable degree of independence from the Executive and Judicial Branches as consistent with the separation of powers principle. The Legislature should be empowered to call a limited special session when deemed to be in the best interests of the people of the state.

The Legislature should have the authority to call itself into special session if the Governor is unwilling or incapable of calling a special session during a state emergency or executive crisis. Under the existing language in the *Nevada Constitution*, the Legislature is unable to call itself into special session to act in an emergency or to begin impeachment proceedings against a Governor or any other elected state official alleged to have violated provisions of the law.

Currently, 34 state legislatures have the ability to call a special legislative session. The Nevada Legislature is one of only 16 state legislative bodies in the nation that are not authorized to call a special session.

### **ARGUMENTS AGAINST PASSAGE**

Allowing the Legislature to call itself into special session shifts the existing balance of power among the three branches of state government by increasing the power of the Legislative Branch in relation to the Executive and Judicial Branches. Nevadans may be subject to the passage of an increasing number of laws and taxes if the Legislature can call itself into special session. Although this proposal limits the length of any one special session to 20 days, it does not limit the number of special sessions that can be called by the Legislature. The potential exists for the Legislature to become a full-time, professional body with significant cost to the taxpayers. Allowing the Legislature to call itself into special session attempts to get around the voters' past opposition to annual sessions.

Amendment of the *Nevada Constitution* should be a rare undertaking and constitutional language should not be changed simply to respond to the wishes of members of the Legislature. The framers of the *Constitution* created a part-time, "citizen legislature" by limiting the occurrence of regular sessions to once every two years. Nevada remains one of six states in the nation with biennial regular sessions. These states with biennial sessions are considered citizen legislatures and most do not allow their Legislatures to call themselves into special session. This proposal may move Nevada away from the tradition of a part-time legislature and toward a full-time legislature.

### **FISCAL NOTE**

#### **FINANCIAL IMPACT – CANNOT BE DETERMINED**

The proposal to amend the *Nevada Constitution* would provide a method for members of the Nevada Legislature to convene a special session of the Legislature. If this proposal is approved there would be costs associated with convening and holding a special session called by the Legislature, but the financial impact cannot be established with any degree of certainty because the number and duration of such special sessions cannot be predicted. It should be noted that the

costs to organize and hold a special session convened by the Legislature would be the same as a special session convened by the Governor.

The state may incur minimal costs to develop and circulate the petition required to convene a special session under the provisions of the proposal, which should have no adverse fiscal impact on the State.