

ASSEMBLY JOINT RESOLUTION NO. 11—ASSEMBLYWOMAN BLACK

MARCH 17, 2021

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend the Nevada Constitution to require “None of the above” be a choice on the ballot in certain elections. (BDR C-596)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

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

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to require that “None of the above” be a choice on the ballot in certain elections.

Legislative Counsel’s Digest:

1 Existing law requires that every ballot upon which appears the names of
2 candidates for any statewide office or for President and Vice President of the
3 United States contain for each office an additional line placed at the end of the
4 group of lines containing the names of the candidates for that office. Each
5 additional line is required to contain a square in which the voter may express a
6 choice of “None of these candidates” but only votes cast for the named candidates
7 are counted in determining nomination or election. (NRS 293.269) Under the
8 Nevada Constitution, when the Nevada Supreme Court canvasses the returns of a
9 general election for United States Senator, member of Congress, district officer and
10 state officer, the person who receives the highest number of votes is declared
11 elected. (Nev. Const. Art. 4, § 5)

12 This resolution amends the Nevada Constitution to require that “None of the
13 above” be a choice on the ballot for any primary or general election for President
14 and Vice President of the United States, United States Senator, United States
15 Representative, Governor, Lieutenant Governor, Attorney General, Secretary of
16 State, State Treasurer, State Controller, member of the Senate and member of the
17 Assembly. Votes cast for the named candidates and the choice “None of the above”
18 must be counted in determining the outcome of the primary or general election for
19 such offices except for President and Vice President of the United States. If the
20 choice of “None of the above” receives the highest number of votes at the primary
21 election to determine the nominee of a political party, the political party may
22 nominate a candidate for the general election except that the political party may not
23 nominate a person who was a candidate at the primary election. If the choice of
24 “None of the above” receives the highest number of votes at the general election,
25 the Secretary of State is required to call a special election. Each political party that



26 was entitled to have a candidate on the ballot at the general election may nominate
27 a candidate for the special election except that the political party may not nominate
28 a person who was a candidate at the general election. The choice of "None of the
29 above" must not appear on the ballot for any such special election and the candidate
30 who receives the highest number of votes at the special election shall be declared
31 the winner of the special election. This resolution also requires the Legislature to
32 provide by law for the canvass of the returns of the special election.

1 RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF
2 NEVADA, JOINTLY, That a new section, designated Section 5A, be
3 added to Article 2 of the Nevada Constitution to read as follows:

4 *Sec. 5A. 1. Every ballot at a primary or general election for*
5 *the offices of President and Vice President of the United States,*
6 *United States Senator, United States Representative, Governor,*
7 *Lieutenant Governor, Attorney General, Secretary of State, State*
8 *Treasurer, State Controller, member of the Senate or member of*
9 *the Assembly must allow a registered voter to express a choice of*
10 *"None of the above" in the same manner as the registered voter*
11 *would express a choice of a candidate for such an office.*

12 *2. Votes cast for the candidates and the choice "None of the*
13 *above" must be counted in determining the outcome of the*
14 *primary or general election for all offices described in subsection*
15 *1 except for President and Vice President of the United States.*

16 *3. If the choice of "None of the above" receives the highest*
17 *number of votes at a primary election to determine the nominee of*
18 *a political party for any office set forth in subsection 1 other than*
19 *President and Vice President of the United States, the political*
20 *party may submit to the Secretary of State the name of a candidate*
21 *who will be the political party's nominee for that office at the*
22 *general election. A political party may not nominate a person for*
23 *the general election whose name appeared on the ballot at the*
24 *primary election.*

25 *4. If the choice of "None of the above" receives the highest*
26 *number of votes at a general election for an office described in*
27 *subsection 1 other than President and Vice President of the United*
28 *States, the Secretary of State must call a special election for that*
29 *office. Each political party that was entitled to have a candidate on*
30 *the ballot at the general election may submit to the Secretary of*
31 *State the name of a candidate who will be the political party's*
32 *nominee for that office at the special election. A political party*
33 *may not nominate a person whose name appeared on the ballot at*
34 *the general election to be a candidate at the special election.*

35 *5. If a special election is held pursuant to subsection 4:*

36 *(a) The choice of "None of the above" must not appear on the*
37 *ballot at the special election; and*



1 ***(b) The candidate who receives the highest number of votes at***
2 ***the special election shall be declared the winner of the special***
3 ***election.***

4 ***6. The Legislature shall provide by law for the canvass of the***
5 ***returns of a special election that is required to be held pursuant to***
6 ***subsection 5.***

7 And be it further

8 RESOLVED, That Section 4 of Article 5 of the Nevada
9 Constitution be amended to read as follows:

10 ~~Section~~ ***Sec. 4. Except as otherwise provided in Section 5A***
11 ***of Article 2:***

12 ***1.*** The returns of every election for United States senator and
13 member of Congress, district and state officers, and for and against
14 any questions submitted to the electors of the State of Nevada, voted
15 for at the general election, shall be sealed up and transmitted to the
16 seat of government, directed to the secretary of state, and the chief
17 justice of the supreme court, and the associate justices, or a majority
18 thereof, shall meet at the office of the secretary of state, on a day to
19 be fixed by law, and open and canvass the election returns for
20 United States senator and member of Congress, district and state
21 officers, and for and against any questions submitted to the electors
22 of the State of Nevada, and forthwith declare the result and publish
23 the names of the persons elected and the results of the vote cast
24 upon any question submitted to the electors of the State of Nevada.

25 ***2.*** The persons having the highest number of votes for the
26 respective offices shall be declared elected . ~~[-but in case any]~~ ***If***
27 ***two or more persons*** have an equal and the highest number of votes
28 for the same office, the legislature shall, by joint vote of both
29 houses, elect one of said persons to fill said office.

30 And be it further

31 RESOLVED, That this resolution becomes effective upon
32 passage.

