

STATE QUESTION NO. 5

Amendment to Title 24 of the *Nevada Revised Statutes*

CONDENSATION (Ballot Question)

Shall Chapter 293 of the *Nevada Revised Statutes* be amended to establish a system that will automatically register an eligible person to vote, or update that person's existing Nevada voter registration information, at the time the person applies to the Nevada Department of Motor Vehicles for the issuance or renewal of any type of driver's license or identification card, or makes a request to change the address on such a license or identification card, unless the person affirmatively declines in writing?

Yes No

EXPLANATION & DIGEST

EXPLANATION—This ballot measure proposes to amend Chapter 293 of the *Nevada Revised Statutes* to require the Secretary of State, the Department of Motor Vehicles (DMV), and each county clerk to cooperatively establish a system that automatically registers to vote an eligible person when the person submits an application for the issuance or renewal of or change of address for any type of driver's license or identification card issued by the DMV. If the person is already registered to vote, the system would automatically update his or her existing Nevada voter registration information. The person would be allowed to affirmatively decline in writing to register to vote if he or she did not want to register to vote.

The system established by the Secretary of State, the DMV, and each county clerk pursuant to this measure must allow voter registration information collected by the DMV to be transmitted electronically to the Secretary of State and the county clerks for the purpose of registering the person to vote or updating the voter registration information of the person for the purpose of correcting the statewide voter registration list. Pursuant to the measure, this electronic transmission of voter registration information must be secure. The storage of any voter registration information collected pursuant to the measure must also be secure.

Prior to concluding the person's transaction, the ballot measure requires the DMV to notify each person who submits an application for the issuance or renewal of or change of address for any type of driver's license or identification card issued by the DMV of the following information:

- The qualifications to vote in Nevada;
- That the person will be automatically registered to vote unless he or she affirmatively declines in writing;
- That indicating a political party affiliation or no political party affiliation is voluntary;
- That the person may indicate a political party affiliation on the voter registration form;
- That the person will not be able to vote at a primary election for candidates for partisan offices of a major political party unless the person indicates a major political party affiliation;
- That the decision of whether to register to vote or not will not affect the person's transactions with the DMV or the DMV's services;
- That the person's decision regarding whether to register to vote or not cannot legally be disclosed to the public; and

- That any information collected by the DMV for automatic voter registration cannot be used for any purpose other than voter registration.

According to the measure, if the person does not affirmatively decline in writing to register to vote, certain personal information will be transmitted to the appropriate county election official who will determine if the application to register to vote is complete. The county election official must notify the person if the application is incomplete and additional information is required.

A “Yes” vote would amend Chapter 293 of the *Nevada Revised Statutes* to establish a system that will automatically register to vote, or update the existing Nevada registration information of, any eligible person who applies to the Department of Motor Vehicles for the issuance or renewal of any type of Nevada driver’s license or identification card, or who makes a request to change the address on such a license or identification card, unless the person affirmatively declines in writing.

A “No” vote would not amend Chapter 293 of the *Nevada Revised Statutes* to establish an automatic voter registration system for any eligible person who applies to the Department of Motor Vehicles for the issuance or renewal of any type of Nevada driver’s license or identification card, or who makes a request to change the address on such a license or identification card.

DIGEST—Under current law, the Department of Motor Vehicles (DMV) is designated as a voter registration agency. As such, the DMV must perform certain activities related to voter registration, including posting instructions regarding the voter registration process and providing an application to register to vote to each person who applies for the issuance or renewal of any type of driver’s license or identification card issued by the DMV. Current law also requires the DMV to forward each application to register to vote to the county election official in the county where the applicant resides. If approved by the voters, this measure will have a financial impact on the Secretary of State, DMV, and county election officials; however, the extent of the financial impact will depend on the nature of the system that is cooperatively established pursuant to the requirements of this measure.

If approved, this ballot measure will not remove or eliminate any of the requirements of the DMV as it relates to being a voter registration agency and providing an application to register to vote to each person who applies for the issuance or renewal of any type of driver’s license or identification card issued by the DMV. Instead, the ballot measure seeks to change voter registration at the DMV from an “opt in” process to an “opt out” process, meaning the person applying for the issuance or renewal of a driver’s license or identification card issued by the DMV would need to affirmatively decline in writing in order to opt out of being registered to vote. Under current law, individuals applying for the issuance or renewal of a driver’s license or identification card issued by the DMV must opt in in order to register to vote by taking certain actions. Because of this proposed switch to an “opt out” process, the change sought by this measure is often described as automatic voter registration.

ARGUMENTS FOR PASSAGE

The Automatic Voter Registration Initiative

Yes on Question 5!

Voting is our fundamental right. It is our most important way to guarantee our rights and freedoms— and it’s a responsibility to be taken seriously by both the people and the government. Yet our outdated voter registration process makes it unnecessarily difficult for eligible Nevada citizens to have their voices heard¹ and leaves our registration system vulnerable to errors.² Question 5 will modernize voter

registration, clean the voter rolls, make it more convenient for eligible Nevadans to register, including military members³, rural residents, and those who have recently moved.⁴ It will reduce the risk of fraud and lower costs.⁵

Question 5 makes two small changes that will increase the security of our election system.⁶ First, when a citizen does business with the DMV, such as renewing a driver's license, they will also submit a voter registration application or have their existing voter registration information updated.⁷ Anyone who does not wish to register can quickly and easily decline. Second, the DMV will securely transfer voter registration information to election officials for verification.⁸ Whether a voter chooses to register or not, Question 5 makes the system efficient and secure.⁹ Registration applications under Question 5 will be subject to an additional layer of verification to screen out people who are ineligible to vote.

These two changes create a modern system that leaves less room for human error due to bad handwriting, mishandled or lost paper registration forms, or manual data entry.¹⁰ Additionally, because more voters are able to update their registration, outdated or duplicate records will be removed.¹¹

Fourteen states, including Colorado and Oregon, have automated verification and registration.¹² Many states have reported savings on staff time, paper processing, and mailing.¹³

Every citizen who wants to vote should have a fair and equal opportunity to get registered and stay registered. Vote YES on Question 5.

The above argument was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252. Committee members: Matt Griffin and Sondra Cosgrove. This argument, with active hyperlinks, can also be found at www.nvsos.gov.

¹http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2012/pewupgradingvoterregistrationpdf.pdf

²<http://vote.caltech.edu/working-papers/81>

³<http://www.philly.com/philly/opinion/automatic-voter-registration-new-jersey-avr-online-voting-opinion-20180305.html>; <https://www.usnews.com/opinion/articles/2009/07/27/voting-obstacles-suppress-military-vote>

⁴<https://www.americanprogress.org/issues/democracy/reports/2017/06/07/433677/votes-automatic-voter-registration/>; <http://www.ncsl.org/research/elections-and-campaigns/automatic-voter-registration.aspx>

⁵<http://www.projectvote.org/wp-content/uploads/2010/01/Paperless-Registration-Case-Study-FINAL.pdf>; <https://www.americanprogress.org/issues/democracy/reports/2017/06/07/433677/votes-automatic-voter-registration/>; http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2012/pewupgradingvoterregistrationpdf.pdf

⁶https://www.leg.state.nv.us/Session/79th2017/Bills/IP/IP1_EN.pdf

⁷ Id.

⁸ Id.

⁹<https://www.americanprogress.org/issues/democracy/reports/2017/06/07/433677/votes-automatic-voter-registration/>

¹⁰<https://www.brennancenter.org/analysis/automatic-voter-registration>

¹¹https://www.scribd.com/document/287069526/Case-for-Automatic-Voter-Registration#fullscreen&from_embed

¹² <http://www.ncsl.org/research/elections-and-campaigns/automatic-voter-registration.aspx>;
<https://www.sltrib.com/news/politics/2018/03/08/do-you-want-to-register-to-vote-utah-enacts-widespread-election-law-changes-including-election-day-registration-here-are-all-the-changes/>

¹³ https://www.scribd.com/document/287069526/Case-for-Automatic-Voter-Registration#fullscreen&from_embed; <https://www.nytimes.com/2016/12/02/us/politics/oregon-voter-registration.html>

REBUTTAL TO ARGUMENTS FOR PASSAGE

The Secretary of State's (SOS) office currently has procedures to maintain accurate and current voter registration lists. In 2012 the Nevada SOS office helped to pioneer the formation of the Electronic Registration Information Center (ERIC). ERIC is an innovative approach to list maintenance, using information from the Department of Motor Vehicles, Social Security Administration records and other databases to compare voters within Nevada and in other member states.¹

Nevada's SOS website also provides for voter registration for Uniformed and Overseas Citizens to register to vote.² In addition, the DMV also offers online voter registration. You can complete a voter registration application or update your current registration online *during* a Change of Address, License/ID Renewal or Duplicate request. If you need to go to a DMV office, you can complete a voter registration application or update your current registration in person.³

Every citizen who wants to register to vote has the opportunity to do so whenever they wish to do so. The online options mentioned above, including an in-person visit to the DMV if needed, offers a modern, fair and equal opportunity for citizens to become registered to vote.

The above rebuttal was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee members: Lynn Armanino and Nickie Diersen. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any environmental impact or an impact on public health, safety, and welfare. This rebuttal, with active hyperlinks, can also be found at www.nvsos.gov.

¹ <https://www.nvsos.gov/sos/elections/voters/voter-record-maintenance>

² <https://www.nvsos.gov/sos/elections/voters/uniformed-overseas-citizens>

³ <http://www.dmvnv.com/dlvote.htm>

ARGUMENTS AGAINST PASSAGE

The right to vote is one of the most important liberties we enjoy as Americans and it is one of our greatest responsibilities as citizens.¹

The fundamental right of deciding whether one wishes to initiate voter registration belongs to the individual and not the government.²

Question 5 would change the "Opt In" voter registration process at the Department of Motor Vehicles (DMV) to "Opt Out."

Currently the "Opt In" system is in place at the DMV and this system is in compliance with federal law (National Voter Registration Act of 1993).³ The "Opt In" driver's licensing and voter registration are a simultaneous process in which the customer completes a single form that serves as both a driver's license application to the DMV and a voter registration document for use by election officials.

Automatic Voter Registration (AVR) does not improve “access” as we currently have excellent access via the DMV in person or online, or through the Secretary of State website in which it can be done either online or by mail.⁴

The proposed “Opt Out” system shifts the responsibility of registering to vote from the individual to the government. Nevada residents who do not want to be registered will have to affirmatively “Opt Out” or have their names and addresses automatically added to voter rolls and become public information.

Currently there is no evidence to support that increased voter registration leads to higher voter turnout.⁵ Just because a voter is registered does not mean he or she will vote on Election Day. There are numerous reasons why people don’t vote. According to a U.S. Census Bureau Report from the 2016 elections Americans chose not to vote because they didn’t like the candidates or issues (24%), were too busy (14%), or simply weren’t interested (15%).⁶

Passing Question 5 would also incur expenses to implement. The Secretary of State’s office estimates the cost of implementation to be up to \$221,000.⁷

It is not prudent to implement a costly revamping of our current “Opt In” Voter Registration system with no evidence to support that it would increase voter turnout on Election Day.

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¹ <http://www.escambiavotes.com/voter-rights-and-responsibilities>

² http://www.ncsl.org/documents/summit/summit2015/onlineresources/Legal_Implications_of_Automatic_Voter_Registration.pdf

³ <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra>

⁴ <http://www.dmvnv.com/dlvote.htm>

⁵ <http://www.ncsl.org/research/elections-and-campaigns/automatic-voter-registration.aspx#disadvantages%20auto%20reg>

⁶ <http://www.pewresearch.org/fact-tank/2017/06/01/dislike-of-candidates-or-campaign-issues-was-most-common-reason-for-not-voting-in-2016/>

⁷ <https://www.nvsos.gov/sos/home/showdocument?id=4715>

REBUTTAL TO ARGUMENTS AGAINST PASSAGE

Ever wonder why people have to re-register to vote every time they move? Nevadans move a lot, which can lead to inaccurate voter records.¹ Government has a responsibility to keep our registration records accurate. Voting Yes on Question 5 does exactly that—making it more convenient for eligible citizens to register to vote and saving taxpayers millions by modernizing an outdated system.²

Question 5 eliminates the need to re-register every time you move, because your registration moves with you when you change your address with the DMV.³ And if you don’t want to be registered, you can decline, quickly and easily.⁴

Question 5 makes voting more accessible for working parents, military families, and people in rural areas. Policies like Question 5 have already passed in 14 states, and bipartisan experts agree that they made voting more accessible for eligible citizens.^{5,6} In Oregon, it helped 250,000 citizens register to vote, including 75,000 in rural areas.

Question 5 is a small, common-sense change that helps eligible citizens get registered — but Nevadans will still have to take personal responsibility to vote. Question 5 streamlines the registration process with an efficient, secure system that automatically verifies eligibility and keeps voter records accurate and updated.

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http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2012/pewupgradingvoterregistrationpdf.pdf

² https://www.leg.state.nv.us/Session/79th2017/Bills/IP/IP1_EN.pdf

³ Id.

⁴ Id.

⁵ <https://www.commoncause.org/massachusetts/our-work/expand-voting-rights-election-integrity/automatic-voter-registration/>

⁶ <https://www.brennancenter.org/analysis/voter-registration-modernization-support>

FISCAL NOTE

FINANCIAL IMPACT – YES

OVERVIEW

Question 5 proposes to amend various sections of the *Nevada Revised Statutes* to require the Secretary of State, the Department of Motor Vehicles (DMV), and county clerks to cooperatively establish a system by which certain voter registration information that is required to be collected by the DMV pursuant to this question is electronically transmitted to the Secretary of State and the county clerks and registrars of voters.

FINANCIAL IMPACT OF QUESTION 5

The Department of Motor Vehicles (DMV) indicated that the provisions of Question 5 specify that a person is deemed as consenting to the transmission of their voter information to county clerks and registrars unless they decline in writing, or “opt out.” The Department has indicated that compliance with these provisions will require approximately 1,000 hours of computer system programming, which DMV indicated would require the utilization of existing and contract staff to complete, at a cost of approximately \$60,000.

The DMV additionally indicated that compliance with the opt-out provisions in Question 5 would require the DMV to revise the current applications for driver’s licenses and state identification cards, as well as to begin issuing postcards to notify applicants that their voter information has been transmitted to the Secretary of State’s Office. The DMV has estimated that the additional cost to perform these tasks would be approximately \$56,000 per fiscal year.

The Secretary of State’s Office provided four different scenarios relating to the implementation of the provisions of Question 5, with specific costs for each scenario, as follows:

1. The DMV would be required to work directly with the county clerks and registrars to develop a system to electronically transfer voter registration information collected by the DMV. No data would pass through any systems operated by the Secretary of State; however, the Secretary of State's Office may be required to provide advice and assistance to the DMV and the county clerks and registrars using existing staff. This scenario assumes that data transfers between the county clerks and registrars and the Secretary of State to update the current Statewide Voter Registration List would continue under the current processes.

The Secretary of State's Office has indicated that this scenario would result in no financial impact upon the Secretary of State's Office.

2. The Secretary of State's office would act as a conduit and pass voter registration information collected by the DMV to the county clerks and registrars using existing applications, connections, software, and systems maintained by both the DMV and the counties. Under this scenario, the bulk of the project responsibilities regarding the secure automated download programs required under Question 5 would lie with the DMV and/or the county clerks and recorders.

The Secretary of State's Office has indicated that the implementation of this scenario would require the services of a contract business process analyst, which is estimated by the Secretary of State's Office to have a cost of approximately \$110,000.

3. The Secretary of State's Office would be required to enhance existing applications, connections, software, and systems to automatically integrate voter registration information collected by the DMV into the local voter registration systems operated by the county clerks and registrars.

The Secretary of State's Office has estimated that the cost for implementing this scenario would be approximately \$221,000, relating to the design, development, and documenting of internal system enhancements, as well as enhancements that would be required to local voter registration systems.

4. The Secretary of State's Office, in concert with the DMV and the county clerks and registrars, would be required to develop a statewide voter registration database compliant with the federal Help America Vote Act of 2002 (HAVA). To maintain compliance with HAVA, the statewide database would be required to be a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level. In addition, the statewide database would be required to be coordinated with other agency databases within the state.

The Secretary of State's Office has estimated that the cost to develop a statewide voter registration database compliant with HAVA would likely require the purchasing or licensing of a base system, which would either be maintained by the Secretary of State's Office or be maintained through a service-level agreement with the vendor. The Office has estimated that the development and implementation of this system would result in expenditures of approximately \$4.8 million.

The Fiscal Analysis Division additionally received information from counties indicating that the implementation of Question 5 may result in additional implementation costs at the county level relating to programming of systems. Although some counties indicated that no programming changes were necessary to implement this question, other counties indicated that programming changes would be required, with costs as high as approximately \$200,000 (in Clark County). The responses received from the counties also anticipated one-time and ongoing expenses for additional personnel, voter machines, voter registration cards, sample ballots, and absentee ballots that may result from a potential increase

in the number of registered voters, which ranged from as low as \$1,000 per year in smaller counties to as high as \$500,000 per year in Clark County.

Although it is clear that implementing Question 5 will have some financial impact on state agencies and local governments, the costs incurred will depend on the nature of the system that is cooperatively established by the Secretary of State, the DMV and the county clerks as required by Question 5.

Prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau – August 6, 2018
