

Marquis Aurbach Coffing

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Attorneys for Defendants:

*Jakeman, Sullivan, Donaldson, Stevens,
Baldwin, Merlino, Spero, Lewis,
Rothery, Elgan, Lloyd, Hoehne, Nepper, and Bryan*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

FAIR MAPS NEVADA, a Nevada political
action committee, SONDRAS COSGROVE,
DOUGLAS GOODMAN, and ROBERT
MCDONALD

Plaintiffs,

vs.

BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State,
JOSEPH P. GLORIA, in his official capacity
as Clark County Registrar of Voters, DEANNE
SPIKULA, in her official capacity as Washoe
County Registrar of Voters, KRISTINA
JAKEMAN, in her official capacity as Elko
County Clerk, SADIE SULLIVAN, in her
official capacity as Lander County Clerk,
LACEY DONALDSON, in her official
capacity as Pershing County Clerk-Treasurer,
VANESSA STEVENS, in her official capacity
as Storey County Clerk-Treasurer, NICHOLE
BALDWIN, in her official capacity as White
Pine County Clerk, SANDRA MERLINO, in
her official capacity as Nye County Clerk,
TAMMI RAE SPERO, in her official capacity
as Humboldt County Clerk, KATHY LEWIS,
in her official capacity as Douglas County
Clerk-Treasurer, LINDA ROTHERY, in her
official capacity as Churchill County Clerk-
Treasurer, LACINDA ELGAN, in her official
capacity as Esmeralda County Clerk-Treasurer,
LISA C. LLOYD, in her official capacity as

Case Number:
3:20-cv-00271-MMD-WGC

DECLARATION OF KATHY LEWIS
IN SUPPORT OF OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION

MARQUIS AURBACH COFFING

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Las Vegas, Nevada 89145
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1 Lincoln County Clerk, LISA HOEHNE, in her
 2 official capacity as Eureka County Clerk,
 3 CHRISTOPHER NEPPER, in his official
 4 capacity as Mineral County Clerk-Treasurer,
 5 NIKKI BRYAN, in her official capacity as
 6 Lyon County Clerk-Treasurer, and AUBREY
 7 ROWLATT, in her official capacity as Carson
 8 City Clerk-Recorder,

9 Defendants.

10 I, Kathy Lewis, declare as follows:

11 1. I am over the age of 18 years and have personal knowledge of the facts stated
 12 herein, except for those stated upon information and belief, and as to those, I believe them to
 13 be true. I am competent to testify as to the facts stated herein in a court of law and will so
 14 testify if called upon.

15 2. I serve as both the Douglas County Clerk and Treasurer. I am also the
 16 President of the Nevada Association of County Clerks and Election Officials (the
 17 "Association"). The Association is comprised of all of the Nevada County Clerks and
 18 Election Officials – many of which are named in the instant action.

19 3. As President of the Association, I authored, in collaboration with the
 20 Association Membership, a letter to Nevada Secretary of State, Barbara Cegavske (the
 21 "Secretary") dated May 11, 2020.¹

22 4. NRS 295.056 sets the deadline for submission of an initiative or referendum
 23 and already allows petitioners to have as much time possible to gather signatures while still
 24 allowing the State to prepare the question and arguments and then submit the information to
 25 the Counties to place on the ballot.

26 5. As an Association, we are concerned that an extension to obtain signatures
 27 would jeopardize our ability to have ballots completed in time for the November General
 Election. Among other things, a primary concern is that ballots need to be completed by

¹ 1. A true and correct copy of that letter is attached hereto as **Exhibit A**.

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1 mid-August to allow enough time to distribute ballots to military personal and their families
2 45 days before the election as required by Federal Law.

3 6. Under the current deadlines, there are about eight weeks from the deadline to
4 submit signatures for a petition to when the ballots need to be completed to be sent to
5 military personnel. During this limited 8-week period, and in addition to performing all of
6 the other functions associated with our positions, signatures need to be verified to determine
7 sufficiency, the State will need to form committees to draft arguments for and against the
8 petition and arguments need to be written and vetted.

9 7. The process once the State gives the County the approved questions and
10 arguments requires our members to format the information into our sample ballot and
11 ballot. By way of example, in 2018, we had eight different ballot styles and each sample
12 ballot for each ballot style was around 72 pages.² This means once the County has the final
13 question and arguments, we are responsible to proof the ballot and sample ballot to ensure
14 accuracy.

15 8. In certain counties they are required to provide each ballot and sample ballot
16 in multiple languages including Spanish, English and Tagoloan. This process requires the
17 hiring of translators to provide this service.

18 9. Once we have all the information for our sample ballots and ballots, we work
19 with our vendors to create both. I know in Douglas County we have had to go back and
20 forth numerous times before we get a final product. Each time we get a new sample, we
21 were required to proof the entire ballot question, digest arguments, and financial impact to
22 ensure it was correct.

23 10. As an Association, it is our position that any shortening of the statutory time
24 periods would place a substantial burden the State and Counties ability to complete the
25 ballot and conduct all of our other responsibilities relative to the 2020 General Election.

26 ² A true and correct draft copy of a 2018 General Election Sample Ballot from Douglas County, is
27 attached hereto as **Exhibit B**.

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11. This burden, while substantial on all of the Association Membership, is a particular burden on those members from rural counties. Of the 15 rural counties the members have limited staff, if any, and are often tasked to perform:

a. Other Clerk duties – The Clerks in the rural counties also clerk their commissioner/supervisor meetings, issue marriage license, license marriage officiants, issue business and fictitious firm names, issue passports and provide DMV Vehicle Services;

b. Serve in Multiple Capacities – In seven counties, the Clerk and Treasurer offices are combined (Churchill, Douglas, Esmeralda, Lyon, Mineral, Pershing and Storey), in two counties, the Clerk and Recorder offices are combined (Carson City and Eureka), and in Carson City, the Clerk also serves as the County's public administrator. Thus, in addition to fulling the functions of clerk, our members are often wearing many hats and simultaneously performing multiple jobs which include, but are not limited to, billing property taxes in July and receiving first installments in August. I know in Douglas County, 40% of our property taxes are collected with the first installment in August which creates substantial work for me and my office;

c. Voter Registration - In a Presidential year, voter registration is generally higher. In addition, in January 2020, Nevada started automatic voter registration which has significantly increased voter registrations. By way of example, in Douglas County we went from about 60 voter registrations from DMV in an average week to 60 voter registration in a day. Once the DMV reopens, we expect that number to increase substantially; and

d. Judicial Duties - In eight counties (Eureka, Nye, White Pine, Humboldt, Lincoln, Storey, Elko and Esmeralda), the Clerk also serves as the Clerk to the Courts.

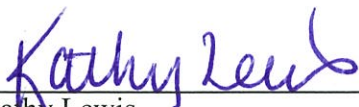
12. The Plaintiffs' petition is not the only one we are required to deal with in this election cycle. For example, in Douglas County we have four additional county questions that will be on the ballot for the General Election, two advisory questions and two

1 referendum questions. This means that in Douglas County we have to advertise and manage
2 up to eight committees and their arguments.

3 13. Given the foregoing, any shortening of the statutory time periods is going
4 place a substantial burden the State and Counties.

5 14. Pursuant to NRS § 53.045, I declare under penalty of perjury under the laws
6 of the State of Nevada that the foregoing is true and correct.

7 Executed on this 15th day of May 2020.

8
9 
10 Kathy Lewis

MARQUIS AURBACH COFFING

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EXHIBIT A

May 11, 2020 Letter to Barbara Cegavske

**Nevada Association of County Clerks
& Election Officials**

Kathy Lewis, President
1616 8th St., Minden, NV 89423
(775)782-6273

May 11, 2020
Barbara Cegavske
Nevada Secretary of State
101 North Carson Street, Suite 3
Carson City, NV 89701
Delivered via email

Dear Secretary of State Cegavske,

In response to Lawsuit filed by Fair Maps Nevada, in which along with yourself, the County Clerks and Registrar of Voters for all 17 counties were named, the Nevada Association of County Clerks and Elections Officials would like to submit this letter to address our concerns.

As an Association, we are concerned that an extension to obtain signatures would jeopardize our ability to have ballots completed in time for the November General Election. When this petition is considered, we hope the court considers ballots need to be completed by mid-August to allow enough time to distribute ballots to military personal and their families 45 days before the election as required by Federal Law.

NRS 295.056 sets the deadline for submission of an initiative or referendum and already allows petitioners to have as much time possible to gather signatures and still allow the State to prepare the question and arguments and submit the information to the Counties to place on the ballot. There are about 8 weeks from the deadline to submit signatures for a petition to when the ballots need to be completed to ready them to be sent to military personnel. During this 8 weeks, signatures need to be verified to determine sufficiency, committees need to be formed to draft arguments for and against the petition and arguments need to be written and vetted. As an Association, we feel the State and Counties are able to accomplish these tasks within 8 weeks, but feel if this time frame was shortened it would place a substantial burden for counties ability to complete the ballot and conduct the 2020 General Election.

Please let us know how we provide assistance.

Thank you for your time and consideration.


Kathy Lewis, President
Nevada Association of County Clerks and Election Officials

Nevada Association of County Clerks & Election Officials

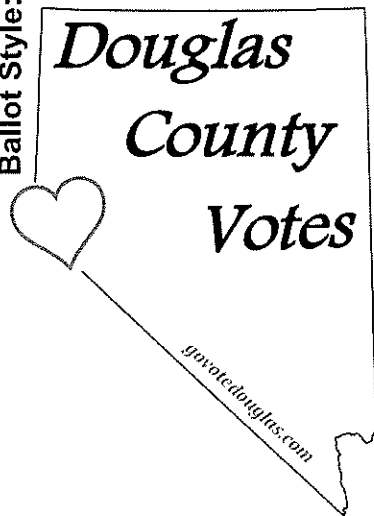
Kathy Lewis, President
1616 8th St., Minden, NV 89423
(775)782-6273

Cc via email: Wayne Thorley, Deputy Secretary of State for Elections
Aubrey Rowlett, Carson City Clerk/Recorder
Linda Rothery, Churchill County Clerk/Treasurer
Joseph Gloria, Clark County Registrar of Voters
Kathy Lewis, Douglas County Clerk/Treasurer
Kristine Jakeman, Elko County Clerk
LaCinda Elgan, Esmeralda County Clerk/Treasurer
Lisa Hoehne, Eureka County Clerk/Recorder
Tami Spero, Humboldt County Clerk
Sadie Sullivan, Lander County Clerk
Lisa Lloyd, Lincoln County Clerk
Nikki Bryan, Lyon County Clerk/Treasurer
Chris Nepper, Mineral County Clerk/Treasurer
Sandra Merlino, Nye County Clerk
Lacey Donaldson, Pershing County Clerk/Treasurer
Vanessa Stephens, Storey County Clerk/Treasurer
Deanna Spikula Washoe County Registrar of Voters
Nichole Baldwin, White Pine County Clerk
Brain R. Hardy, Marquis, Aurback Coffing

EXHIBIT B

Douglas County Sample Ballot

Ballot Style: G1



Douglas County, NV

General Election Sample Ballot

Tuesday, November 6 , 2018

Polls Open 7:00 a.m. to 7:00 p.m.

GoVoteDouglas.com

Election Day- If you choose to vote in person on Election Day, you may appear at any of the Douglas County polling locations listed below between 7:00 a.m. and 7:00 p.m. Please bring your sample ballot with you when you vote! Check **GoVoteDouglas.com** for more info.

Douglas County Community Center	1329 Waterloo Ln., Gardnerville, NV 89410
Gardnerville Ranchos Fire Station	940 Mitch Dr., Gardnerville, NV 89460
Genoa Town Hall	2287 Main St., Genoa, NV 89411
Johnson Lane Fire Station	1450 Stephanie Way, Minden, NV 89423
Kahle Community Center	236 Kingsbury Grade Rd., Stateline, NV 89449
Sunridge Fire Station	3620 N. Sunridge Rd., Carson City, NV
Topaz Ranch Estates Fire Station	1476 Albite Rd., Wellington, NV 89444
Washoe Elder Center	801 WaSheShu Way, Gardnerville, NV 89460

Vote by Mail- Requests for mail-in ballots must be made in writing. The request must be received by the Clerk-Treasurer's Office no later than 5:00 p.m. Tuesday, October 30, 2018. Mail-in ballots must be returned to the Clerk-Treasurer's Office no later than 7:00 p.m. Tuesday, November 6, 2018. Applications for mail-in ballots are available at GoVoteDouglas.com.

Main Early Voting Location & Schedule- Any Douglas County registered elector may early vote at any early voting location, see the next page for a list of the temporary branch early voting locations. Bring your sample ballot to your early voting location.

HISTORIC COURTHOUSE- 1616 8TH ST., MINDEN, NV

- Saturday, October 20th from 10:00 a.m. – 2:00 p.m.
- Monday- Friday, October 22nd - October 26th from 8:00 a.m. to 6:00 p.m.
- Saturday, October 27th from 10:00 a.m. – 2:00 p.m.
- Monday- Friday, October 29th – November 2nd from 8:00 a.m. – 6:00 p.m.

Temporary Branch Early Voting Locations

These pop-up locations are in addition to the main early voting site. Any registered voter may appear in person and vote early at any of the following locations.

KAHLE COMMUNITY CENTER- 236 Kingsbury Grade Rd., Stateline, NV 89449

- Monday, October 22nd from 1:00 p.m. – 5:00 p.m.

FISH SPRINGS FIRE STATION- 2249 Fish Springs Rd., Gardnerville, NV 89410

- Tuesday, October 23rd from 1:00 p.m. - 5:00 p.m.

SUNRIDGE FIRE STATION- 3620 N. Sunridge Rd., Carson City, NV 89705

- Wednesday, October 24th from 1:00 p.m. - 5:00 p.m.

DOUGLAS COUNTY COMMUNITY CENTER- 1329 Waterloo Ln., Gardnerville, NV 89410

- Thursday, October 25th from 1:00 p.m. - 5:00 p.m.

TOPAZ RANCH ESTATES FIRE STATION- 1476 Albite Rd., Wellington, NV 89444

- Monday, October 29th from 1:00 p.m. – 5:00 p.m.

GARDNERVILLE RANCHOS FIRE STATION- 940 Mitch Dr., Gardnerville, NV 89460

- Tuesday, October 30th from 1:00 p.m. – 5:00 p.m.

JOHNSON LANE FIRE STATION- 1450 Stephanie Way, Minden, NV 89423

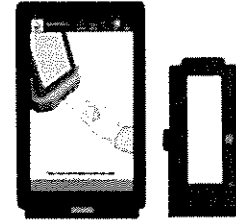
- Thursday, November 1st from 1:00 p.m. to 5:00 p.m.

Each early voting location and polling place will have a separate line for voters that are physically unable to wait in line. There will be signs at each location directing voters to the correct line. If you are unable to wait in line and do not see a sign or separate line, please see an election official for assistance.

! *If you have questions or concerns about the mechanical voting device or you do not see the races you expected to see on your ballot, please **stop** voting and raise your hand to request assistance from an election official. Once you cast your ballot you cannot make changes.*

VOTING INSTRUCTIONS

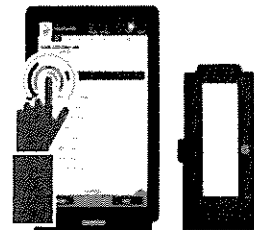
1. Insert your activation card into the yellow slot at the bottom of the tablet to activate your ballot. Leave the card inserted for the duration of your session.



2. Change the font size and screen contrast as needed.

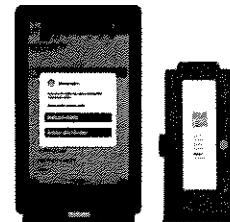


3. Tap your choice to vote. If you change your mind tap your choice again to undo it.

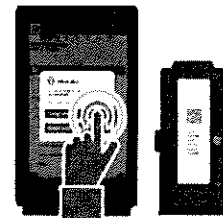


4. Tap the buttons at the bottom of the tablet to navigate through your ballot.

5. Once you have navigated through your ballot on the ImageCast• Prime, you will have the opportunity to review and confirm your selections on the Voter Verifiable Paper Audit Trail (VVPAT Printer) before casting.



6. Once you are satisfied with your selections, tap the cast ballot button. The VVPAT will indicate that your ballot has been successfully cast.



If you have any questions while voting on the mechanical voting device please raise your hand and an election official will assist you. Once you cast your vote you cannot make changes.

FEDERAL PARTISAN OFFICES**UNITED STATES SENATE
Six (6) Year Term
VOTE FOR ONE**

BAKARI, KAMAU A.	IAP	<input type="radio"/>
HAGAN, TIM	LPN	<input type="radio"/>
HELLER, DEAN	REP	<input type="radio"/>
MICHAELS, BARRY	NPP	<input type="radio"/>
ROSEN, JACKY	DEM	<input type="radio"/>
NONE OF THESE CANDIDATES		<input type="radio"/>

**UNITED STATES REPRESENTATIVE
IN CONGRESS,
DISTRICT 2
Two (2) Year Term
VOTE FOR ONE**

AMODEI, MARK E.	REP	<input type="radio"/>
KOBLE, CLINT	DEM	<input type="radio"/>

Party Abbreviations

DEM – Democratic Party

IAP – Independent American Party

LPN – Libertarian Party

NP – Nonpartisan

NPP – No Political Party

REP – Republican Party

**STATE
PARTISAN OFFICES****GOVERNOR
Four (4) Year Term
VOTE FOR ONE**

BEST, RUSSELL	IAP	<input type="radio"/>
BUNDY, RYAN	NPP	<input type="radio"/>
LAXALT, ADAM PAUL	REP	<input type="radio"/>
LORD, JARED	LPN	<input type="radio"/>
SISOLAK, STEVE	DEM	<input type="radio"/>
NONE OF THESE CANDIDATES		<input type="radio"/>

**LIEUTENANT GOVERNOR
Four (4) Year Term
VOTE FOR ONE**

HANSEN, JANINE	IAP	<input type="radio"/>
MARSHALL, KATE	DEM	<input type="radio"/>
ROBERSON, MICHAEL	REP	<input type="radio"/>
UEHLING, ED	NPP	<input type="radio"/>
NONE OF THESE CANDIDATES		<input type="radio"/>

**SECRETARY OF STATE
Four (4) Year Term
VOTE FOR ONE**

ARAUJO, NELSON	DEM	<input type="radio"/>
CEGAVSKE, BARBARA K.	REP	<input type="radio"/>
NONE OF THESE CANDIDATES		<input type="radio"/>

STATE PARTISAN OFFICES

TREASURER Four (4) Year Term VOTE FOR ONE

BEERS, BOB REP ☐

CONINE, ZACH DEM ☐

HOGUE, BILL IAP ☐

NONE OF THESE CANDIDATES ☐

CONTROLLER Four (4) Year Term VOTE FOR ONE

BYRNE, CATHERINE DEM ☐

KNECHT, RON REP ☐

NONE OF THESE CANDIDATES ☐

ATTORNEY GENERAL Four (4) Year Term VOTE FOR ONE

DUNCAN, WES REP ☐

FORD, AARON DEM ☐

HANSEN, JOEL F. IAP ☐

NONE OF THESE CANDIDATES ☐

STATE PARTISAN OFFICES

STATE SENATE, DISTRICT 17 Four (4) Year Term VOTE FOR ONE

CANNON, CURTIS W. DEM ☐

SETTELMAYER, JAMES ARNOLD REP ☐

STATE ASSEMBLY, DISTRICT 39 Two (2) Year Term VOTE FOR ONE

ACKERMAN, PATRICIA DEM ☐

CWALINA, PAUL LPN ☐

WHEELER, JIM REP ☐

COUNTY PARTISAN OFFICES

DOUGLAS COUNTY ASSESSOR Four (4) Year Term VOTE FOR ONE

THOLEN, TRENT REP ☐

DOUGLAS COUNTY CLERK-TREASURER Four (4) Year Term VOTE FOR ONE

LEWIS, KATHY REP ☐

COUNTY PARTISAN OFFICES

**DOUGLAS COUNTY
COMMISSIONER, DISTRICT 2**
Four (4) Year Term
VOTE FOR ONE

ENGELS, JOHN REP ☐

**DOUGLAS COUNTY
COMMISSIONER, DISTRICT 4**
Four (4) Year Term
VOTE FOR ONE

KANDEL, KRISTI LYNN NPP ☐

RICE, WESLEY A. REP ☐

**DOUGLAS COUNTY
DISTRICT ATTORNEY**
Four (4) Year Term
VOTE FOR ONE

JACKSON, MARK B. REP ☐

**DOUGLAS COUNTY
PUBLIC ADMINISTRATOR**
Four (4) Year Term
VOTE FOR ONE

WALSH, STEVE REP ☐

DOUGLAS COUNTY RECORDER
Four (4) Year Term
VOTE FOR ONE

ELLISON, KAREN REP ☐

**STATE
NONPARTISAN OFFICES**

**JUSTICE OF THE SUPREME
COURT, SEAT C**
Six (6) Year Term
VOTE FOR ONE

CADISH, ELISSA NP ☐

TAO, JERRY NP ☐

NONE OF THESE CANDIDATES ☐

**JUSTICE OF THE SUPREME
COURT, SEAT F**
Six (6) Year Term
VOTE FOR ONE

SILVER, ABBI NP ☐

NONE OF THESE CANDIDATES ☐

**JUSTICE OF THE SUPREME
COURT, SEAT G**
Six (6) Year Term
VOTE FOR ONE

HARTER, MATHEW NP ☐

STIGLICH, LIDIA NP ☐

NONE OF THESE CANDIDATES ☐

STATE BALLOT QUESTIONS

STATE QUESTION NO. 1

Amendment to the Nevada Constitution

Senate Joint Resolution No. 17
of the 78th Session

Shall the *Nevada Constitution* be amended to: (1) remove existing provisions that require the Legislature to provide certain statutory rights for crime victims; and (2) adopt in their place certain expressly stated constitutional rights that crime victims may assert throughout the criminal or juvenile justice process?

YES ☐

NO ☐

STATE QUESTION NO. 2

*Amendment to the Sales and
Use Tax Act of 1955*

Senate Bill 415 of the 79th Session

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of feminine hygiene products?

YES ☐

NO ☐

STATE QUESTION NO. 3

Amendment to the Nevada Constitution

Shall Article 1 of the *Nevada Constitution* be amended to require the Legislature to provide by law for the establishment of an open, competitive retail electric energy market that prohibits the granting of monopolies and exclusive franchises for the generation of electricity?

YES ☐

NO ☐

STATE QUESTION NO. 4

Amendment to the Nevada Constitution

Shall Article 10 of the *Nevada Constitution* be amended to require the Legislature to provide by law for the exemption of durable medical equipment, oxygen delivery equipment, and mobility enhancing equipment prescribed for use by a licensed health care provider from any tax upon the sale, storage, use, or consumption of tangible personal property?

YES ☐

NO ☐

STATE BALLOT QUESTIONS

STATE QUESTION NO. 5

Amendment to Title 24 of the
Nevada Revised Statutes

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 ☐

STATE QUESTION NO. 6

Amendment to the *Nevada Constitution*

Shall Article 4 of the *Nevada Constitution* be amended to require, beginning in calendar year 2022, that all providers of electric utility services who sell electricity to retail customers for consumption in Nevada generate or acquire incrementally larger percentages of electricity from renewable energy resources so that by calendar year 2030 not less than 50 percent of the total amount of electricity sold by each provider to its retail customers in Nevada comes from renewable energy resources?

YES ☐

NO ☐

COUNTY BALLOT QUESTION

COUNTY QUESTION NO. 1

This Question is Advisory Only

Shall the Douglas County Board of Commissioners implement an increase in the existing tax on the privilege of new real property development in Douglas County up to the maximum amounts allowed under NRS 278.710 for the purpose of funding road construction and maintenance project costs or bonds?

YES ☐

NO ☐

STATE QUESTION NO. 1

Amendment to the Nevada Constitution

Senate Joint Resolution No. 17 of the 78th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to: (1) remove existing provisions that require the Legislature to provide certain statutory rights for crime victims; and (2) adopt in their place certain expressly stated constitutional rights that crime victims may assert throughout the criminal or juvenile justice process?

YES ☐ NO ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure would amend the *Nevada Constitution* by: (1) removing existing provisions that require the Legislature to provide certain statutory rights for crime victims; and (2) replacing those existing provisions with a “Victims’ Bill of Rights” that would give crime victims certain expressly stated constitutional rights that they may assert throughout the criminal or juvenile justice process.

This ballot measure is modeled on a similar ballot measure known as “Marsy’s Law” that California voters approved as an amendment to the *California Constitution* in 2008. However, the Legislature made several revisions in drafting Nevada’s ballot measure, and thus there are some differences between this ballot measure and California’s Marsy’s Law.

In 1996, Nevada voters amended the *Nevada Constitution* to impose a constitutional duty on the Legislature to enact laws expressly providing for the following rights of crime victims that may be asserted personally or through a representative: (1) the right to be informed, upon written request, of the status or disposition of a criminal proceeding at any stage of the proceeding; (2) the right to be present at all public hearings involving the critical stages of a criminal proceeding; and (3) the right to be heard at all proceedings for the sentencing or release of a convicted person after trial. In accordance with the 1996 amendment, the Legislature has—throughout the past two decades—enacted and amended laws expressly providing for statutory rights of crime victims. This ballot measure would remove the constitutional provisions added in 1996 and replace them with new state constitutional rights that crime victims may assert throughout the criminal or juvenile justice process.

This ballot measure defines a “victim” of crime as: (1) any person directly and proximately harmed by the commission of a criminal offense under any law of this State; or (2) if the victim is less than 18 years of age, incompetent, incapacitated or deceased, the legal guardian of the victim or a representative of the victim’s estate, member of the victim’s family or any other person who is appointed by the court to act on the victim’s behalf, except that the court cannot appoint the criminal defendant as such a person.

This ballot measure sets forth the following state constitutional rights that victims may assert throughout the criminal or juvenile justice process:

- 1) the right to be treated with fairness and with respect for the victim’s privacy and dignity, and to be free from intimidation, harassment and abuse;
- 2) the right to be reasonably protected from the defendant and persons acting on behalf of the defendant;
- 3) the right to have the safety of the victim and the victim’s family considered as a factor in fixing the amount of bail and release conditions for the defendant;
- 4) the right to prevent the disclosure of confidential information or records to the defendant which could be used to locate or harass the victim or the victim’s family;
- 5) the right to refuse an interview or deposition request, unless under court order, and to set reasonable conditions on the conduct of any such interview to which the victim consents;
- 6) the right to reasonably confer with the prosecuting agency, upon request, regarding the case;
- 7) the right to the timely disposition of the case following the arrest of the defendant;
- 8) the right to reasonable notice of all public proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other postconviction release proceedings, and to be present at all such proceedings;
- 9) the right to be reasonably heard, upon request, at any public proceeding in any court involving release or sentencing, and at any parole proceeding;

- 10) the right to provide information to any public officer or employee conducting a presentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant;
- 11) the right to full and timely restitution and to have all monetary payments, money and property collected from any person who has been ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim;
- 12) the right to the prompt return of legal property when no longer needed as evidence;
- 13) the right to be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant and the release of or the escape by the defendant from custody;
- 14) the right to be informed of all postconviction proceedings, to participate and provide information to the parole authority to be considered before the parole of the defendant and to be notified, upon request, of the parole or other release of the defendant;
- 15) the right to have the safety of the victim, the victim's family and the general public considered before any parole or other postjudgment release decision is made; and
- 16) the right to be specifically informed of these constitutional rights and to have information concerning these constitutional rights be made available to the general public.

This ballot measure also provides that the granting of these constitutional rights to victims must not be interpreted to deny or disparage other rights possessed by victims, and this ballot measure authorizes the Legislature to enact any necessary or useful laws to secure to victims the benefit of these constitutional rights.

This ballot measure also provides that a victim has standing to assert these constitutional rights in any court with jurisdiction over the case and that the court must promptly rule on the victim's request, but the victim is not given the status of a party in a criminal proceeding. The victim also may bring a lawsuit to compel a public officer or employee to carry out any duty required by this ballot measure or any law enacted thereto. However, no victim or other person may maintain any other lawsuit against this State or any public officer or employee for damages or certain other judicial relief as a result of a violation of this ballot measure or any law enacted thereto.

This ballot measure also states that the defendant does not have standing to assert the rights of any victims, and no violation of this ballot measure or any law enacted thereto authorizes setting aside the defendant's conviction. This ballot measure also states that it does not alter the powers, duties or responsibilities of a prosecuting attorney.

Finally, this ballot measure states that, in addition to the constitutional right given to victims to be heard at the defendant's parole hearing, the parole authority must extend the constitutional right to be heard at a parole hearing to any person harmed by the defendant.

A "Yes" vote would remove existing provisions of the *Nevada Constitution* that require the Legislature to provide certain statutory rights for crime victims and would replace those existing provisions with new state constitutional rights that crime victims may assert throughout the criminal or juvenile justice process.

A "No" vote would keep existing provisions of the *Nevada Constitution* that require the Legislature to provide certain statutory rights for crime victims and would not change those existing statutory rights that crime victims may assert throughout the criminal or juvenile justice process.

DIGEST—This ballot measure would remove existing provisions of the *Nevada Constitution* that require the Legislature to provide certain statutory rights for crime victims and would replace those existing provisions with new state constitutional rights that crime victims may assert throughout the criminal or juvenile justice process. By creating these new constitutional rights, this ballot measure would add to or change existing laws as summarized below. This ballot measure also would decrease public revenue because: (1) it entitles crime victims to full and timely restitution; and (2) it further provides that all monetary payments, money and property collected from a person ordered to pay such restitution must be applied first to pay all victims, which means that until all victims receive full and timely restitution, the State and local governments may not receive assessments, fees, fines, forfeitures and other charges that the person ordered to pay such restitution may legally owe to those governmental entities.

As required by existing provisions of the *Nevada Constitution*, the Legislature has enacted and amended existing laws expressly providing for statutory rights of crime victims. For purposes of those existing laws, the Legislature has generally defined the term "victim" as: (1) a person against whom a crime has been committed or who has been injured or killed as a direct result of the commission of a crime; and (2) certain relatives of such a victim. Under this ballot measure, the term "victim" is defined as: (1) any person directly and proximately harmed by the commission of a criminal offense under any law of this State; or (2) if the victim is less

than 18 years of age, incompetent, incapacitated or deceased, the legal guardian of the victim or a representative of the victim's estate, member of the victim's family or any other person who is appointed by the court to act on the victim's behalf, except that the court cannot appoint the criminal defendant as such a person. The definition of "victim" in this ballot measure is similar to the definition of "crime victim" used in existing federal law commonly known as the federal Crime Victims' Rights Act of 2004.

Existing laws give victims statutory rights that may be enforced in court actions against public officers or employees who fail to perform any duty arising under those laws. This ballot measure would add to those existing laws by giving victims new state constitutional rights that may be enforced in court actions against public officers or employees who fail to perform any duty arising under this ballot measure or any laws enacted thereto. This ballot measure also would give victims standing to assert their rights in any court with jurisdiction over the case and require the court to promptly rule on their requests. However, this ballot measure would not give victims the status of a party in a criminal proceeding, and no victim or other person may maintain any other lawsuit against this State or any public officer or employee for damages or certain other judicial relief as a result of a violation of this ballot measure or any law enacted thereto.

Existing laws give victims statutory rights intended to protect their privacy and dignity, protect them from intimidation, harassment and abuse, protect them from the defendant and persons acting on the defendant's behalf and protect the confidentiality of their personal information. This ballot measure would add to those existing laws by giving victims the following new state constitutional rights: (1) to be treated with fairness and with respect for their privacy and dignity; (2) to be free from intimidation, harassment and abuse; (3) to be reasonably protected from the defendant and persons acting on the defendant's behalf; and (4) to prevent the disclosure of confidential information or records to the defendant which could be used to locate or harass victims or their families.

Existing provisions of the *Nevada Constitution* entitle the defendant, before conviction, to be released on bail except for certain capital offenses or murders. Under existing laws, when the court sets the amount of bail and determines whether to impose conditions on the defendant's release, the court considers several factors, including whether the defendant's release would pose any danger to victims, other persons and the community. This ballot measure would add to those existing laws by giving victims new state constitutional rights to have the safety of victims and their families considered as a factor in fixing the amount of the defendant's bail and any release conditions.

Existing laws do not require victims, without their consent, to participate in interviews or deposition requests during the criminal or juvenile justice process, unless they are under a court order. This ballot measure would add to those existing laws by giving victims new state constitutional rights to refuse interviews or deposition requests during the criminal or juvenile justice process, unless they are under a court order, and to set reasonable conditions on the conduct of any interviews to which they consent.

Existing laws require the prosecutor to take certain actions to notify and inform victims regarding the case against the defendant and to protect victims from intimidation, harassment and abuse. This ballot measure would add to those existing laws by giving victims new state constitutional rights to reasonably confer with the prosecutor, upon request, regarding the case against the defendant. However, this ballot measure would not alter the powers, duties or responsibilities of the prosecutor.

Existing laws allow the court to consider whether victims will be adversely impacted by requested continuances, postponements or other delays during the criminal or juvenile justice process. This ballot measure would add to those existing laws by giving victims new state constitutional rights to the timely disposition of the case following the defendant's arrest.

Existing laws require victims' property to be returned promptly when the property is no longer needed as evidence. This ballot measure would add to those existing laws by giving victims new state constitutional rights to the prompt return of legal property when the property is no longer needed as evidence.

Existing laws give victims statutory rights to receive notice, attend, participate, provide information and be heard during certain stages of the criminal or juvenile justice process. This ballot measure would add to those existing laws by giving victims the following new state constitutional rights: (1) to reasonable notice of all public proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other postconviction release proceedings, and to be present at all such proceedings; (2) to be reasonably heard, upon request, at any public proceeding in any court involving release or sentencing, and at any parole proceeding; (3) to provide information to any public officer or employee conducting a presentence investigation concerning the impact of the offense on the victims and their families and any sentencing recommendations before the defendant's sentencing; (4) to be informed, upon request, of the defendant's conviction, sentence, place and time of incarceration, or other disposition, the defendant's scheduled release date and the defendant's release or escape from custody; and (5) to be informed of all postconviction

proceedings, to participate and provide information to the parole authority to be considered before the defendant's parole and to be notified, upon request, of the defendant's parole or other release. This ballot measure also would require the parole authority to extend the constitutional right to be heard at a parole hearing to any person harmed by the defendant.

Existing laws provide that when determining whether to release the defendant on parole, the parole authority must consider several factors, including any potential threat to society posed by the defendant's release and any documents or testimony submitted by victims. This ballot measure would add to those existing laws by giving victims new state constitutional rights to have the safety of victims, their families and the general public considered before any parole or other postjudgment release decision is made.

Existing provisions of the *Nevada Constitution* provide that all fines collected under the criminal laws of this State are pledged for educational purposes. Under existing laws, the defendant may be ordered or required to pay assessments, fees, fines, forfeitures and other charges to the State and local governments and restitution to victims. This ballot measure would change those existing laws by: (1) giving victims new state constitutional rights to full and timely restitution; and (2) requiring that all monetary payments, money and property collected from a person ordered to pay such restitution must be applied first to pay all victims, which means that until all victims receive full and timely restitution, the State and local governments may not receive their assessments, fees, fines, forfeitures and other charges that the person ordered to pay such restitution may legally owe to those governmental entities.

Finally, existing laws require victims to be provided with certain information regarding their statutory rights. This ballot measure would add to those existing laws by giving victims new state constitutional rights to be specifically informed of their constitutional rights and to have information concerning those rights be made available to the general public.

ARGUMENTS FOR PASSAGE

Question 1, commonly known as Marsy's Law, expands and elevates victims' rights from a statutory level to a constitutional level to ensure victims receive the fairness, respect and protection they deserve as they navigate the criminal or juvenile justice process. Question 1 gives crime victims constitutional rights equal in stature to those given to the accused and convicted. Although the *Nevada Constitution* requires the Legislature to enact certain statutory rights for crime victims, those rights are too limited and are much easier to weaken than constitutional rights.

Victims of crime have already experienced a traumatizing event and are entitled to compassionate justice. They should not be revictimized by a justice system that does not weigh their rights equally with those of the accused and convicted. By enhancing victims' rights, Question 1 provides much-needed balance at all stages of the justice system—including pretrial, trial, sentencing, probation, parole and postrelease—and guarantees victims the right to be heard at each stage. Question 1 also guarantees that victims can enforce their rights in court if those rights are being violated. Victims who are afforded more meaningful rights in the justice system are more likely to report crime and to feel safer engaging in the legal process.

Unlike current Nevada law, Question 1 establishes a clear priority for victims to receive full and timely restitution. It requires that any money collected from those ordered to pay restitution must first be paid in full to victims before going to any other use. The right to full and timely restitution—and assistance in collecting that restitution—ensures that victims get the priority they deserve.

Question 1 gives victims a voice, not a veto. Members of the legal system—including law enforcement, prosecutors, judges, juries and parole boards—retain their ability to make decisions as they see fit, but only after victims have been heard. Question 1 also does not change the rights of the accused at trial, sentencing or any other part of the legal process. It simply creates rights for victims that level the playing field in a system that all too often favors the accused.

Question 1 can be easily implemented. Federal courts have been applying similar rights to federal crimes since 2004, and several states have enacted their own versions of Marsy's Law over the last decade. Since the legal system has been applying victims' rights similar to those proposed by Question 1 for many years, implementing these enhanced rights in Nevada will not be difficult.

Nevada voters should level an unfair playing field, ensure the right to full and timely restitution and guarantee crime victims the voice they deserve. Vote "yes" on Question 1.

ARGUMENTS AGAINST PASSAGE

Question 1 is a solution in search of a problem that does not exist. There is no reason to enact this complex, costly and confusing proposal because the *Nevada Constitution* and state law already guarantee comprehensive victims' rights. Question 1 removes Nevada's current constitutional and statutory framework that gives the Legislature the flexibility needed to balance victims' rights with the efficient and effective functioning of the justice system.

Instead, Question 1 imposes an inflexible framework, and any unintended consequences cannot be fixed unless the *Nevada Constitution* is amended yet again—an uncertain process that typically takes more than three years.

Question 1's confusing and vague language will make it more difficult to ensure that justice is served. For example, because the unclear definition of "victim" extends to any person "directly and proximately harmed" by the crime, it will be extremely difficult and expensive for officials to identify and notify this ill-defined group. Question 1 also includes other vague language that opens the door to lengthy delays, added expense and inconsistent application of the law. Thus, instead of helping victims, Question 1 will make it more difficult for victims to receive justice.

Question 1 undermines rights guaranteed to everyone by the *United States Constitution*, including the rights to be presumed innocent until proven guilty, to effective counsel, to confront one's accusers and to a speedy trial. For example, by allowing victims to prevent disclosure of certain information or to refuse to participate in interviews or depositions, those wrongfully accused of crimes may be denied access to information proving their innocence. The State, not the victim, is tasked with prosecuting and punishing crimes, but Question 1 allows victims to pursue their own agendas without regard to the individual constitutional rights of those accused of crimes.

Question 1 also creates complex and costly burdens on the State and local governments. The expanded notification provisions will likely require additional staff, technological changes and other resources, all of which will be paid for by taxpayers. Based on the experience of other states that have enacted their own versions of Marsy's Law, Nevada can expect costly litigation challenging the validity, interpretation and implementation of Question 1. Furthermore, Question 1's restitution requirements will decrease revenue collected by the State and local governments from assessments, fees, fines, forfeitures and other charges. These added expenses and decreases in revenue may reduce vital governmental services, including victim assistance programs.

Nevada voters should not approve this poorly written, expensive and unnecessary constitutional amendment that does nothing to improve anyone's rights. Vote "no" on Question 1.

FISCAL NOTE

FINANCIAL IMPACT – CANNOT BE DETERMINED

Anticipated Financial Impact on the State and Local Governments from the Potential Reduction in Revenue Received from Assessments, Fees, Fines, Forfeitures and Other Charges

Under existing laws, certain persons in the criminal or juvenile justice process may be ordered or required to pay assessments, fees, fines, forfeitures and other charges to the State and local governments and restitution to crime victims. The money collected from assessments, fees, fines, forfeitures and other charges provides revenue to the general operating budgets and specific programs of the State and local governments.

Under this ballot measure, all monetary payments, money and property collected from a person ordered to pay restitution must be applied first to that restitution until all victims are paid in full and then to any assessments, fees, fines, forfeitures and other charges. Therefore, because the State and local governments will not receive revenue from these sources until full and timely restitution is paid, certain state and local governmental budgets or programs funded by these sources may be affected by a reduction in revenue.

However, the potential reduction in revenue received by the State and local governments cannot be determined because the amount of restitution that will be ordered and the amount of restitution that ultimately will be paid cannot be estimated with any reasonable degree of certainty. Consequently, the financial impact on the state and local governmental budgets or programs funded by these sources cannot be determined because it is impossible to predict how the Legislature or local governing bodies may address any impacts on these budgets or programs.

Anticipated Financial Impact on the State from the Potential Reduction in Revenue Received from Authorized Deductions Withheld from Offenders' Wages or Individual Accounts

Under existing laws, offenders incarcerated by Nevada's Department of Corrections are subject to deductions from: (1) any wages they earn through an authorized offender employment program; and (2) any money in their individual accounts in the Prisoners' Personal Property Fund. The Director of the Department of Corrections is authorized to make these deductions to provide funding for various programs and purposes.

Under this ballot measure, all monetary payments, money and property collected from offenders ordered to pay restitution must be applied first to that restitution until all victims are paid in full and then to any authorized deductions. Therefore, because the State will not receive revenue from these deductions until full and timely restitution is paid, certain state programs and purposes funded by these deductions may be affected by a reduction in revenue.

However, the potential reduction in revenue from these authorized deductions received by the State cannot be determined because the amount of restitution that will be ordered and the amount of restitution that ultimately will be paid cannot be estimated with any reasonable degree of certainty. Consequently, the financial impact on the programs and purposes funded by these authorized deductions cannot be determined because it is impossible to predict how the Legislature may address any impacts on these programs and purposes.

Anticipated Expenditures Needed by the State and Local Governments to Implement This Ballot Measure

The Judicial Branch and certain state agencies, such as the Department of Corrections and the Department of Public Safety, as well as local governments, may incur both one-time and ongoing expenses to carry out their additional duties under this ballot measure. However, the potential financial impact on the State and local governments cannot be determined because it is impossible to predict with any reasonable degree of certainty the amount of any one-time or ongoing expenditures that may be needed to carry out these additional duties.

STATE QUESTION NO. 2

Amendment to the Sales and Use Tax Act of 1955

Senate Bill 415 of the 79th Session

CONDENSATION (Ballot Question)

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of feminine hygiene products?

YES ☐ NO ☐

EXPLANATION & DIGEST

EXPLANATION—This proposed amendment to the Sales and Use Tax Act of 1955 would exempt from the taxes imposed by this Act the gross receipts from the sale and storage, use or other consumption of feminine hygiene products.

If this proposal is adopted, the Legislature has provided that the Local School Support Tax Law and certain analogous taxes on retail sales will be amended to provide the same exemptions.

Additionally, the Legislature has provided that in administering these sales and use tax exemptions for feminine hygiene products, Nevada’s Department of Taxation will interpret the term “feminine hygiene product” to mean a sanitary napkin or tampon.

Finally, the Legislature has provided that these sales and use tax exemptions for feminine hygiene products will become effective on January 1, 2019, and expire by limitation on December 31, 2028.

A “Yes” vote would exempt feminine hygiene products from the Sales and Use Tax Act of 1955, the Local School Support Tax Law and certain analogous sales and use taxes.

A “No” vote would keep the current provisions of the Sales and Use Tax Act of 1955, the Local School Support Tax Law and certain analogous sales and use taxes.

DIGEST—The Sales and Use Tax Act of 1955 imposes taxes on the gross receipts from the sale and storage, use or other consumption of all tangible personal property in this State unless the property is exempt from such taxation. Because the Sales and Use Tax Act of 1955 was approved by the voters at a referendum election held under the *Nevada Constitution*, the Act cannot be amended, annulled, repealed, set aside, suspended or in any way made inoperative unless such action is also approved by the voters at an election. This ballot measure would amend the Sales and Use Tax Act of 1955 by creating an exemption from sales and use taxes for feminine hygiene products. This ballot measure would decrease public revenue because these products would no longer be subject to sales and use taxes.

Under existing laws, sales and use taxes are additionally imposed by: (1) the Local School Support Tax Law which provides revenue for the support of local schools; and (2) other tax laws which provide revenue for the support of counties, cities, towns, special and local districts, regional agencies and authorities, other political subdivisions and specific projects and purposes. This ballot measure would change those existing laws by creating exemptions from sales and use taxes for feminine hygiene products.

Under existing laws, Nevada's Department of Taxation is required to administer the collection of sales and use taxes under the Sales and Use Tax Act of 1955, the Local School Support Tax Law and other tax laws. In administering those existing laws, the Department is required to give specific meanings to particular terms. This ballot measure would add to those existing laws by requiring the Department to interpret the term "feminine hygiene product" to mean a sanitary napkin or tampon.

Under existing provisions of the *Nevada Constitution*, when any measure enacts exemptions from sales and use taxes, the measure must provide a specific date on which the exemptions will cease to be effective. Because this ballot measure would enact exemptions from sales and use taxes for feminine hygiene products, this ballot measure provides that the exemptions will cease to be effective on December 31, 2028.

ARGUMENTS FOR PASSAGE

Feminine hygiene products should be exempt from Nevada's sales and use taxes. These products are not a luxury but a basic necessity of life that women use starting around age 12 until their early 50s. During those years, the average woman may use 20,000 or more of these products.

Feminine hygiene products should be treated like other medical products that are exempt from Nevada's sales and use taxes, such as splints, bandages, and prosthetic devices. This is consistent with the U.S. Food and Drug Administration's classification of tampons as a type of medical product.

There is no equivalent medical product that is used only by one sex on a monthly basis for decades. These sales and use taxes are especially unjust for low-income women who struggle to pay for basic necessities each month. Feminine hygiene products need to be more accessible, and eliminating these taxes on sanitary napkins and tampons will make them more affordable.

Nine states and the District of Columbia specifically exempt feminine hygiene products from their sales and use taxes. In some states, such as Maryland and Massachusetts, feminine hygiene products are exempt because they are considered medical products.

Nevada voters should eliminate these discriminatory sales and use taxes to lower the cost of feminine hygiene products, increase access to these necessities and improve women's health and welfare. Vote "yes" on Question 2.

ARGUMENTS AGAINST PASSAGE

Exempting feminine hygiene products from Nevada's sales and use taxes will result in less revenue for the State and local governments, including school districts. This loss of revenue may adversely affect the provision of state and local governmental services. California considered exempting these products in 2016, but the Governor vetoed the proposal because of concerns about lost revenue.

Consistent with sound tax policy, Nevada and 35 other states do not exempt feminine hygiene products from their sales and use taxes. A broader tax base generally leads to lower rates and is better suited to accommodate upturns and downturns in the economy. Instead of broadening the tax base, this exemption will narrow the tax base, creating the potential for more volatility in sales and use tax revenue and complicating the administration of these taxes with no gain in terms of tax policy.

Nevada's sales and use taxes are not discriminatory and do not tax products based on sex. Rather, products sold in Nevada are generally subject to these taxes regardless of who buys or uses them. As a result, many products that are considered necessities, such as soap, toothbrushes and toilet paper, are not exempt from sales and use taxes.

Nevada voters should not approve yet another tax exemption that violates sound tax policy, shrinks the tax base and decreases revenue for public services. Vote “no” on Question 2.

FISCAL NOTE

FINANCIAL IMPACT – YES

Under current law, feminine hygiene products, defined as tampons and sanitary napkins under the exemption in Question 2, are considered tangible personal property subject to state and local sales and use taxes in the State of Nevada. If approved by the voters, this exemption from state and local sales and use taxes for tampons and sanitary napkins purchased in the State of Nevada would reduce the revenue received by the State and local governments, including school districts, during the last six months of Fiscal Year 2019 (January 1, 2019–June 30, 2019), all of Fiscal Years 2020 through 2028 (July 1, 2019–June 30, 2028), and the first six months of Fiscal Year 2029 (July 1, 2028–December 31, 2028).

Although the actual ages during which females typically use tampons and sanitary napkins will vary by person, it is assumed that all females between the ages of 12 and 55 in the State of Nevada will use these products for the purposes of this fiscal note.

Based on projections by the State Demographer, there were approximately 867,000 females between the ages of 12 and 55 living in the State of Nevada on July 1, 2017. Assuming the average monthly consumption of these feminine hygiene products is between \$7 and \$10 per person, this would generate total taxable sales of between \$6.1 million and \$8.7 million each month, or total taxable sales of between \$72.8 million and \$104.0 million each fiscal year.

Applying these assumptions to the combined statewide sales and use tax rate of 6.85 percent, this exemption would result in the following estimated revenue reductions for each component of the combined rate:

Combined Statewide Sales & Use Tax Rate Component	Tax Rate	Recipient of Revenue	Estimated Revenue Loss Per Fiscal Year
State Sales Tax	2.0%	State General Fund	\$1.5 million – \$2.1 million
Local School Support Tax (LSST)	2.6%	School Districts, State Distributive School Account	\$1.9 million – \$2.7 million
Basic City-County Relief Tax (BCCRT)	0.5%	Counties, cities, towns, and other local governmental entities	\$360,000 – \$510,000
Supplemental City-County Relief Tax (SCCRT)	1.75%	Counties, cities, towns, and other local governmental entities	\$1.2 million – \$1.8 million
TOTAL	6.85%		\$4.96 million – \$7.11 million

The estimated revenue loss per fiscal year for each component of the combined statewide sales and use tax rate represents between 0.13 percent and 0.19 percent of the actual revenue collected for each of these components in Fiscal Year 2017.

In addition to the statewide taxes described above, thirteen of Nevada's seventeen counties (Carson City, Churchill, Clark, Douglas, Elko, Lander, Lincoln, Lyon, Nye, Pershing, Storey, Washoe and White Pine) impose one or more optional local sales taxes for authorized uses. Applying the assumptions described above to these optional local sales taxes, this exemption would result in the following estimated local revenue reductions:

County	Total Combined Optional Local Tax Rate	Estimated Revenue Loss from Combined Optional Local Tax Rate Per Fiscal Year	Estimated Loss as a % of Total Revenue from Combined Optional Local Tax Rate
Carson City	0.75%	\$8,200–\$11,700	0.11%–0.15%
Churchill	0.75%	\$4,500–\$6,500	0.22%–0.32%
Clark	1.40%	\$750,000– \$1,071,400	0.13%–0.19%
Douglas	0.25%	\$2,400–\$3,400	0.14%–0.19%
Elko	0.25%	\$3,400–\$4,900	0.10%–0.14%
Esmeralda	None	None	None
Eureka	None	None	None
Humboldt	None	None	None
Lander	0.25%	\$400–\$500	0.06%–0.07%
Lincoln	0.25%	\$300–\$400	0.40%–0.53%
Lyon	0.25%	\$3,000–\$4,300	0.28%–0.40%
Mineral	None	None	None
Nye	0.75%	\$6,400–\$9,200	0.15%–0.22%
Pershing	0.25%	\$300–\$400	0.11%–0.14%
Storey	0.75%	\$600–\$800	0.07%–0.09%
Washoe	1.415%	\$150,200–\$214,600	0.14%–0.19%
White Pine	0.875%	\$1,600–\$2,300	0.08%–0.11%
TOTAL		\$931,300– \$1,330,400	0.13%–0.18%

Additionally, under current law, Nevada’s Department of Taxation retains commissions, which are deposited in the State General Fund, for the cost of collecting sales and use taxes for local governments and school districts. The commissions are collected at a rate of 0.75 percent for the LSST and a rate of 1.75 percent for the BCCRT, SCCRT and the optional local sales taxes. It is estimated that these commissions will be reduced by a total of between \$59,500 and \$85,000 per fiscal year if this exemption is approved by the voters.

Finally, the State and local governments, including school districts, may lose additional sales tax revenue from this exemption for tampons and sanitary napkins purchased in Nevada by tourists and other nonresidents. However, the amount of these products that may be purchased by such nonresidents, and the resulting loss in revenue to these governmental entities, cannot be determined with any reasonable degree of certainty.

Note that the revenue loss to the State and local governments, including school districts, illustrated above are estimates based on the projected population of females between the ages of 12 and 55 and the estimated average purchases of feminine hygiene products of between \$7 and \$10 per month. The actual revenue loss to the State and local governmental entities during the 10 years when this exemption would be effective (January 1, 2019–December 31, 2028) may be higher or lower in any given fiscal year, depending on the amount of exempt products that are actually purchased. Additionally, changes in the statewide population and the number of nonresidents purchasing these products may affect the actual reduction in sales and use tax revenue.

Nevada's Department of Taxation has indicated that no additional funding is required to implement and administer this exemption for feminine hygiene products from the state and local sales and use taxes.

STATE QUESTION NO. 3

Amendment to the *Nevada Constitution*

Shall Article 1 of the *Nevada Constitution* be amended to require the Legislature to provide by law for the establishment of an open, competitive retail electric energy market that prohibits the granting of monopolies and exclusive franchises for the generation of electricity?

YES ☐ NO ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure proposes to amend the *Nevada Constitution* to require the Legislature to provide by law for an open, competitive retail electric energy market by July 1, 2023. The law passed by the legislature must include, but is not limited to, provisions that reduce costs to customers, protect against service disconnections and unfair practices, and prohibit the granting of monopolies and exclusive franchises for the generation of electricity. The law would not have to provide for the deregulation of the transmission or distribution of electricity.

Approval of this ballot measure would add a new section to the *Nevada Constitution* establishing that every person, business, association of persons or businesses, state agency, political subdivision of the State of Nevada, or any other entity in Nevada has the right to choose the provider of its electric utility service, including but not limited to, selecting providers from a competitive retail electric market, or by producing electricity for themselves or in association with others, and shall not be forced to purchase energy from one provider. The proposed amendment does not create an open and competitive retail electric market, but rather requires the Legislature to provide by law for such a market by July 1, 2023. The law passed by the Legislature cannot limit a person's or entity's right to sell, trade, or otherwise dispose of electricity. Pursuant to Article 19, Section 2, of the *Nevada Constitution*, approval of this question is required at two consecutive general elections before taking effect.

A “Yes” vote would amend Article 1 of the *Nevada Constitution* so that the Legislature would be required to pass a law by July 1, 2023, that creates an open and competitive retail electric market and that includes provisions to reduce costs to customers, protect against service disconnections and unfair practices, and prohibit the granting of monopolies and exclusive franchises for the generation of electricity.

A “No” vote would retain the provisions of Article 1 of the *Nevada Constitution* in their current form. These current provisions do not require the Legislature to pass a law that creates an open and competitive retail electric market and that includes provisions to reduce costs to customers, protect against service disconnections and unfair practices, and prohibit the granting of monopolies and exclusive franchises for the generation of electricity.

DIGEST—Article 1 of the *Nevada Constitution* contains various rights granted to the people of Nevada. Approval of this ballot measure would add a new section to Article 1 of the *Nevada Constitution* that would require the Legislature to provide by law, no later than July 1, 2023, for an open, competitive retail electric energy market with protections that entitle customers to safe, reliable, and competitively priced electricity. The law passed by the legislature must include, but is not limited to, provisions that reduce costs to customers, protect against service disconnections and unfair practices, and prohibit the granting of monopolies and exclusive franchises for the generation of electricity. This constitutional amendment would have an impact on public revenue; however, the amount of the impact cannot be determined.

Existing law, found in Title 58 of the *Nevada Revised Statutes*, generally authorizes a single utility to provide electric service to customers in each electric service territory in the state. This means that most Nevadans are required to purchase electricity from a single provider. Utility providers are regulated by the Nevada Public Utilities Commission (PUC), which is charged with providing for the safe, economic, efficient, prudent, and reliable operation and service of public utilities, as well as balancing the interests of customers and shareholders of public utilities by providing public utilities with the opportunity to earn a fair return on their investments while providing customers with just and reasonable rates.

ARGUMENTS FOR PASSAGE

The Energy Choice Initiative

Vote YES on Question 3, the Energy Choice Initiative.

Nevada has some of the highest electricity rates in the West.¹ In addition, as ratepayers, we are limited in the types of renewable energy we can purchase because most of us are forced to buy energy from a monopoly.² Many businesses, including those who would relocate here and create new jobs, want more renewable energy.³

The problems with the current energy policy are:

- The electricity rates we pay are largely dictated by the Public Utilities Commission, not the free market.⁴ And those rates provide for a guaranteed return (profit) for the utility company.⁵
- There is a legal monopoly in most of Nevada's electricity market and the rates charged to customers are not subject to pressure from competition.⁶
- Without an open market, it is difficult for Nevadans to take advantage of new technologies in energy generation.⁷
- Nevada residents and businesses often cannot choose the specific type of electricity they want—that fueled by renewable resources.⁸

Question 3 is a constitutional amendment that would create a right for Nevadans to purchase energy from an open electricity market. Residents and businesses will be allowed to purchase electricity from a provider of their choice.

A YES vote on Question 3 means you support:

- Eliminating the monopoly on retail power sales.⁹
- Creating a new marketplace where customers and energy providers come together.¹⁰
- Preserving the utility, whether it's NV Energy or another utility, as the operator of the electric distribution grid.¹¹
- Protecting consumers by requiring the Nevada Legislature to enact laws that entitle Nevadans to safe, reliable, and competitively priced electricity that protects against service disconnections and unfair practices.¹²
- Paying rates for electricity that are set by an open and competitive market, not an appointed government agency.¹³

- Allowing energy providers to offer electricity from any source – including renewable sources – without needing the approval of the Commission.¹⁴
- Keeping Nevada’s renewable energy portfolio standard in place, along with Nevada’s other renewable policies.¹⁵
- Allowing the Commission to continue to regulate Nevada’s electricity market, but instead of regulating a single provider, they regulate the competitive market.¹⁶

Many people believe that competition in the electricity market drives prices down and provides more resource options for residents and businesses.¹⁷ To date, 24 states have passed legislation or regulatory orders that will allow some level of retail competition.¹⁸

It’s time for Nevadans to have a choice.

Vote YES on Question 3.

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 (Chair), Nevadans for Affordable, Clean Energy Choices; and Lucas Foletta, Nevadans for Affordable, Clean Energy Choices. This argument, with active hyperlinks, can also be found at www.nvsos.gov.

¹ *Assessment and Recommendations: Alignment of Nevada Economic Development Policy and Energy Policy*, pages 13-14, Nevada State Office of Energy and Governor’s Office of Economic Development (2013), available at <http://www.leg.state.nv.us/interim/77th2013/Committee/StatCom/Energy/Other/19-May-2014/5VBARTHOLETWhitePaper.PDF>.

² NRS 704.330(6).

³ *Las Vegas casinos seek to power their bright lights with renewable energy* (March 7, 2016), The Guardian, <https://www.theguardian.com/environment/2016/mar/07/las-vegas-casinos-solar-power-nevada-energy>; and *Companies Go Green on Their Own Steam* (March 8, 2016), The Wall Street Journal, <http://www.wsj.com/articles/companies-go-green-on-their-own-steam-1457483035>.

⁴ *Things to know on a ballot measure to end NV Energy monopoly* (Apr. 25, 2016), Reno Gazette Journal, <http://www.rgj.com/story/news/2016/04/23/things-know-ballot-measure-end-nv-energy-monopoly/83437680/>.

⁵ *Id.*; Warren Buffet's Dickey Power Play (June 10, 2016), Fortune, <http://www.bloomberg.com/news/articles/2016-06-10/buffett-s-power-play-pits-las-vegas-casinos-against-energy-unit>.

⁶ NRS 704.330(6); *Things to know on a ballot measure to end NV Energy monopoly* (Apr. 25, 2016), Reno Gazette Journal, <http://www.rgj.com/story/news/2016/04/23/things-know-ballot-measure-end-nv-energy-monopoly/83437680/>.

⁷ *Clean Power Startups Aim to Break Monopoly of U.S. Utility Giants* (Dec. 12, 2012), Inside Climate News, <https://insideclimatenews.org/news/20121212/renewable-power-startups-georgia-solar-panterra-energy-gen110-distributed-generation-rooftop-solar-hurricane-sandy>.

⁸ *Nevada Switch data centers now 100% renewable-powered* (Jan. 7, 2016), Reno Gazette Journal, <http://www.rgj.com/story/money/reno-rebirth/2016/01/06/switch-supernap-data-centers-100-percent-renewables-green-energy/78318378/>.

⁹ See Energy Choice Initiative.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Lowering Electricity Prices Through Deregulation*, Current Issues in Economics and Finance, The New York Federal Reserve, https://www.newyorkfed.org/medialibrary/media/research/current_issues/ci6-14.pdf; *Green Energy Guide*, Energy Savings, <https://www.energysavings.com/green-energy-guide.html>.

¹⁸ *Energy Deregulation, Overview: What's Changing and Why*, Washington Post, <http://www.washingtonpost.com/wp-adv/specialsales/energy/report/article10.html>.

REBUTTAL TO ARGUMENTS FOR PASSAGE

A Constitutional measure to deregulate energy markets in Nevada is unnecessary. No evidence exists that deregulation provides additional choice, advances renewable energy, or creates lower rates.

Nevada's average rates are 44% lower than California's, and 20% lower than the U.S. generally.¹ Deregulation hasn't produced lower prices for residents or businesses in states that have tried it.

Nevada's public policies are advancing renewable energy. Nevada's largest utility ranked 7th nationally for added solar last year.² Customers receive energy from 45 large-scale renewable projects capable of supplying 700,000-plus homes.³ Projects are 100% competitively bid, so customers get the lowest cost. Deregulated markets have not been shown to support renewable energy growth.

Utilities plan 20 years ahead to be there for Nevadans in the long-term, providing safe, reliable service.⁴ Deregulation takes away that safety net, exposing us to unpredictable energy markets.

Supporters of Question 3 say that 24 states allow for some level of deregulation. What they don't tell you is that Nevada is one of them. Implementing more deregulation would take years and cost Nevadans significant money. Nevada has set a clear path for stable energy prices and renewable energy development. Full deregulation would put Nevadans at risk and progress on hold.

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 member: Bradley Schrager (Chair), private citizen. This rebuttal, with active hyperlinks, can also be found at www.nvsos.gov.

¹http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_5_6_a Table 5.6.A. Average Price of Electricity to Ultimate Customers by End-Use Sector, by State, May 2016 and 2015 (Cents per kilowatt hour).

² <http://www.solarelectricpower.org/discover-resources/solar-tools/2015-solar-power-rankings.aspx>.

³ https://www.nvenergy.com/brochures_arch/RenewablesBrochure.pdf.

⁴ N.A.C. 704.9215.

ARGUMENTS AGAINST PASSAGE

Deregulation of the energy market means a loss of control by Nevada's citizens. We allowed the airlines to be deregulated, and today air travel is a nightmare.¹ We allowed the banking system to be deregulated, and the housing and financial crisis followed.² It was deregulation of energy markets in California that allowed the Enron disaster.³ In fact, Nevadans considered deregulating the energy market in the 1990s, but the rolling blackouts and power shortages of the Enron crisis taught us that deregulation was too risky.⁴ We should not forget those lessons now, and this initiative should be defeated.

In state after state over the last three decades, proponents of deregulation across the country have promised that “energy choice” would mean lower costs, but the results have been ever-higher prices for energy, charged by private companies outside the control of state agencies.⁵

In deregulated New York, residential customers wound up paying energy costs 70% above the national average.⁶ In Texas, retail consumers pay fifteen percent higher electricity bills after deregulation than before it.⁷ And in Connecticut, customers of deregulated energy providers saw uncontrollable price jumps with little or no warning, increases the state was unable to stop or limit.⁸ Even this initiative’s proponents agree that Nevada will no longer be able to set or secure any certain price or rate structure, and therefore will not be able guard against the same thing happening here. Deregulation of the energy market was supposed to offer consumer choice and better pricing and services, but it did not, and there is no way to guarantee it will provide any benefit at all to Nevadans.

Currently, Nevada’s utility companies are regulated by the state, which approves or rejects any changes to rates and ensures that utilities cannot gouge Nevada customers.⁹ Recent studies show that Nevada consumers enjoyed the second-lowest rates of energy price increase in the country, largely due to the prudent management of the market by public agencies.¹⁰ By contrast, U.S. Department of Energy data shows that electricity prices have risen more steeply in states with energy deregulation programs similar to that proposed by this initiative than in those without.¹¹

Nevada’s energy is too important of a public resource to permit the unpredictable and uncontrollable cost increases that this market deregulation initiative would threaten. We should vote “No” on this very flawed ballot measure, and ensure Nevadans can maintain control over the state’s energy market.

The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee member: Bradley Schrager (Chair), private citizen. This argument, with active hyperlinks, can also be found at www.nvsos.gov.

¹Tom Sgouros, *The Disaster of Deregulation: Airlines*, RI Future, September 18, 2012, <http://www.rifuture.org/the-disaster-of-deregulation-airlines.html>.

² Sewell Chan, *Financial Crisis Was Avoidable, Inquiry Finds*, New York Times, January 25, 2011, <http://www.nytimes.com/2011/01/26/business/economy/26inquiry.html? r=0>.

³ *California Electricity Crisis*, wikipedia.com, https://en.wikipedia.org/wiki/California_electricity_crisis#cite_ref-22.

⁴ Michelle Rindels, *Things to Know on Ballot Measure to End NV Energy Monopoly*, Las Vegas Sun, April 24, 2016, <http://lasvegassun.com/news/2016/apr/24/things-to-know-on-a-ballot-measure-to-end-nv-energ/>.

⁵ Public Sector Consultants, *Electric Industry Deregulation: A Look at the Experience of Three States*, October 2013, <http://www.pscinc.com/LinkClick.aspx?fileticket=IOIAyiNGrwl%3D&tabid=65>.

⁶ H. Carl McCall, New York State Comptroller, *Electric Deregulation in New York State*, February 2001, <http://www.osc.state.ny.us/reports/other/dereg.pdf>.

⁷ Jordan Blum, *Texas Consumers Pay More In Deregulated Electricity Markets*, Houston Chronicle, June 8, 2016, <http://www.houstonchronicle.com/business/energy/article/Texas-consumers-pay-more-in-deregulated-7972017.php>.

⁸ Jennifer Abel, *Deregulated Energy Providers: Are They a Good Deal: Customers of Ambit Energy Decry Unexpected Price Jumps*, Consumer Reports, April 24, 2014, <https://www.consumeraffairs.com/news/deregulated-energy-providers-are-they-a-good-deal-042414.html>.

⁹ Michelle Rindels, *Things to Know on Ballot Measure to End NV Energy Monopoly*, Las Vegas Sun, April 24, 2016, <http://lasvegassun.com/news/2016/apr/24/things-to-know-on-a-ballot-measure-to-end-nv-energ/>.

¹⁰ Texas Coalition for Affordable Power, *Electricity Prices in Texas*, August 2015, p.8, citing United States Energy Information Administration Electricity Data, <http://tcaptx.com/wp-content/uploads/2015/08/TCP-1035-ElectricityPricesinTX-Snapshot-A-Final.pdf>.

¹¹ David Johnston, "Competitively Priced Electricity Costs More, Studies Show," The New York Times, November 6, 2007. <http://www.nytimes.com/2007/11/06/business/06electric.html>.

REBUTTAL TO ARGUMENTS AGAINST PASSAGE

In breaking up Bell's telecommunications monopoly, we unleashed advances in technology that revolutionized how we live.¹ New companies entered the market and began competing for business by offering better products and services — and now we have cell phones with internet access, apps, and cameras.² Monopolies have no incentive to lower prices, become more efficient, and offer more services.³ Under Question 3, energy markets will be opened like telecommunications, trucking, railroads, and natural gas.⁴

The opponents are wrong. Under Question 3, the safety, reliability, and quality of Nevada's energy will continue to be regulated by the Legislature, the PUC, and the federal government.⁵ Opponents try to scare people with Enron, without telling you that there are now effective and proven laws against market manipulation.⁶

Energy choice has been a success in other states. New Yorkers have seen electricity prices drop 34%⁷; in Texas it has caused rates to drop below the national average⁸; and in Connecticut, there are more than 24 suppliers offering over 200 different energy choices, some below standard rates by more than 30%.⁹ 22% of those offers are for 100% renewable energy.¹⁰ It's time for us to have choice in energy suppliers – vote yes on Question 3.

The above rebuttal 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 (Chair), Nevadans for Affordable, Clean Energy Choices; and Lucas Foletta, Nevadans for Affordable, Clean Energy Choices. This rebuttal, with active hyperlinks, can also be found at www.nvsos.gov.

¹ *What We Can Learn From the History of Deregulation: US Telecommunications*, <https://www.bounceenergy.com/articles/texas-electricity/history-of-deregulation-telecommunication>.

² *Id.*

³ *Pure Monopoly: Economic Effects*, <http://thismatter.com/economics/pure-monopoly-economic-effects.htm>.

⁴ *Energy Deregulation, Overview: What's Changing and Why*, Washington Post, <http://www.washingtonpost.com/wp-adv/specialsales/energy/report/article10.html>.

⁵ See Energy Choice Initiative.

⁶ Prohibition of Energy Market Manipulation, <http://www.ferc.gov/enforcement/market-manipulation.asp>.

⁷ NY Electricity Prices Have Fallen 34% under Deregulation, June 17, 2015, <http://www.energymanagertoday.com/ny-electricity-prices-have-fallen-34-under-deregulation-0112925/>.

⁸ Electric deregulation cost Texas customers money, but they're beating the nation now, August 12, 2015, <http://www.houstonchronicle.com/business/energy/article/Electric-deregulation-cost-Texas-customers-money-6439943.php>.

⁹ Connecticut Energy Shopping Site Shows Opportunities for Savings, April 27, 2016, <http://www.resausa.org/news-events/connecticut-energy-shopping-site-shows-opportunities-savings>.

¹⁰ *Id.*

FISCAL NOTE

FINANCIAL IMPACT – CANNOT BE DETERMINED

OVERVIEW

Question 3 proposes to amend Article 1 of the *Nevada Constitution* by adding a new section requiring the Nevada Legislature to provide by law for an open, competitive retail electric energy market no later than July 1, 2023. To ensure that protections are established that entitle customers to safe, reliable, and competitively priced electricity, the law must also include, but is not limited to, provisions that reduce costs to customers, protect against service disconnections and unfair practices, and prohibit the grant of monopolies and exclusive franchises for the generation of electricity.

FINANCIAL IMPACT OF QUESTION 3

If approved by the voters at the 2018 General Election, Question 3 will require the Legislature and Governor to approve legislation creating an open, competitive retail electric energy market between the effective date (November 27, 2018) and July 1, 2023. The Fiscal Analysis Division cannot predict when the Legislature and Governor will enact legislation that complies with the Initiative, nor can it predict how the constitutional provisions proposed within the Initiative will be implemented or which state or local government agencies will be tasked with implementing and administering any laws relating to an open, competitive retail electric energy market. Thus, the financial impact relating to the administration of the Initiative by potentially affected state and local government entities cannot be determined with any reasonable degree of certainty.

Under current law, state and local governments, including school districts, may receive revenue from taxes and fees imposed upon certain public utilities operating within the jurisdiction of that government entity, based on the gross revenue or net profits received by the public utility within that jurisdiction. The Fiscal Analysis Division cannot determine what effect, if any, the open, competitive retail electric energy market created by the Legislature and Governor may have on the consumption of electricity in Nevada, the price of electricity that is sold by these public utilities, or the gross revenue or net profits received by these public utilities. Thus, the potential effect, if any, upon revenue received by those government entities cannot be determined with any reasonable degree of certainty.

Additionally, because the Fiscal Analysis Division cannot predict whether enactment of Question 3 will result in any specific changes in the price of electricity or the consumption of electricity by state and local government entities, the potential expenditure effects on those government entities cannot be determined with any reasonable degree of certainty.

Prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau – August 7, 2018

STATE QUESTION NO. 4

Amendment to the *Nevada Constitution*

Shall Article 10 of the *Nevada Constitution* be amended to require the Legislature to provide by law for the exemption of durable medical equipment, oxygen delivery equipment, and mobility enhancing equipment prescribed for use by a licensed health care provider from any tax upon the sale, storage, use, or consumption of tangible personal property?

YES ☐ NO ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure proposes to amend the *Nevada Constitution* to require the Legislature to pass a law that allows for the exemption of durable medical equipment, oxygen delivery equipment, and mobility enhancing equipment prescribed for human use by a licensed health care provider acting within his or her scope of practice from any tax on the sale, storage, use, or consumption of tangible personal property. The proposed amendment does not create an exemption of durable medical equipment, oxygen delivery equipment, and mobility enhancing equipment from these taxes, but rather requires the Legislature to establish by law for such an exemption. Pursuant to Article 19, Section 2, of the *Nevada Constitution*, approval of this measure is required at two consecutive general elections before taking effect.

A “Yes” vote would amend Article 10 of the *Nevada Constitution* so that the Legislature would be required to pass a law exempting durable medical equipment, oxygen delivery equipment, and mobility enhancing equipment prescribed for human use by a licensed health care provider from taxation related to the sale, storage, use, or consumption of the equipment.

A “No” vote would retain the provisions of Article 10 of the *Nevada Constitution* in their current form. These provisions do not require the Legislature to pass a law exempting durable medical equipment, oxygen delivery equipment, and mobility enhancing equipment prescribed for human use by a licensed health care provider from taxation related to the sale, storage, use, or consumption of the equipment.

DIGEST—Article 10 of the *Nevada Constitution* contains provisions relating to taxation. Approval of this question would add a new section to Article 10 of the *Nevada Constitution* to require the Legislature to pass a law that allows for the exemption of durable medical equipment, oxygen delivery equipment, and mobility enhancing equipment prescribed for human use by a licensed health care provider acting within his or her scope of practice from any tax on the sale, storage, use, or consumption of tangible personal property. This tax exemption would decrease public revenue as this equipment is currently subject to sales and use tax.

ARGUMENTS FOR PASSAGE

Medical Patient Tax Relief Act

A YES vote on Question 4 helps sick, injured, and dying patients and their families. It stops the Department of Taxation from imposing unnecessary sales taxes on medical equipment prescribed by physicians, such as wheelchairs, infant apnea monitors, and oxygen delivery devices. It will bring Nevada in line with the vast majority of states which do not tax this type of equipment for home use.¹

A YES vote would relieve the sales tax burden on medical equipment used by patients who require oxygen devices to live, such as those with cancer, asthma, and cardiac disease; babies who need protection from Sudden Infant Death Syndrome; children with cystic fibrosis on home ventilators; and hospice patients in their last weeks of life. Current Nevada law already exempts medicine and prosthetics because we have recognized how vital this relief is for our most vulnerable populations.² Question 4 simply seeks to extend this protection to critical medical equipment.

For insured Nevadans, this tax is contributing to the increasing copays, deductibles, and premium costs that are crippling family finances across the state. For uninsured Nevadans the impact is even worse: Sales tax on medical equipment can reach thousands of dollars for severely disabled patients, and it forces people to forego essential equipment prescribed by their doctors because they simply cannot afford to pay.

Fortunately, while this would have a significant impact on the patients and their families, there would be *very little impact to state tax revenue*. The Department of Taxation, itself, has estimated that a tax exemption on this medical equipment represents approximately 0.025% of the annual state budget.³

Almost all people will need some sort of medical equipment in their lifetimes. Voting YES on Question 4 is the compassionate, and eventually prudent, thing to do. Join over 100,000 Nevadans who signed the petition calling for the end to this tax. It will help hundreds of families today and may help yours tomorrow.

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: Josh Hicks (Chair), Alliance to Stop Taxes on the Sick and Dying PAC; Doug Bennett, Alliance to Stop Taxes on the Sick and Dying PAC; and Dr. Joseph Kenneth Romeo, private citizen. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any environmental impact or impact on the public health, safety, and welfare. This argument, with active hyperlinks, can also be found at www.nvsos.gov.

¹<https://www.leg.state.nv.us/App/NELIS/REL/78th2015/ExhibitDocument/OpenExhibitDocument?exhibitId=12642&fileDownloadName=Streamlined%20Sales%20Tax%20Comparison.pdf>.

² NRS 372.283.

³ This percentage was reached by calculating the annual fiscal impact of Senate Bill 334 (2015) – \$931,714 – as a percentage of the State’s fiscal year 2017 budget revenues of approximately \$3,700,000,000. See <http://www.leg.state.nv.us/Session/78th2015/FiscalNotes/5266.pdf> and <http://openbudget.nv.gov/OpenGov/ViewBudgetSummary.aep?amountView=Year2&budgetVersionId=13&version=Leg&type=Rev&view=ObjectType>.

REBUTTAL TO ARGUMENTS FOR PASSAGE

The proponents of Question 4 argue that sales tax on durable medical equipment is “unnecessary.” Sales tax funds services such as schools, police, and fire departments, to name a few. Are these services “unnecessary?” If that is true, why are voters in Washoe County being asked to increase their sales tax rate from 7.725% to 8.265% for additional school funding?¹

The proponents say Question 4, “simply seeks to extend this protection to critical medical equipment.” We do not know what this truly means because the language is vaguely worded, and the definitions and exemptions are left to be determined by the Legislature.

The proponents say, "The Department of Taxation, itself, has estimated that a tax exemption on this medical equipment represents approximately 0.025% of the annual state budget." This begs the question, on what "medical equipment?" Until the relevant Legislative session, how is it possible to estimate the impact of this unknown quantity?

The argument in support states, "Almost all people will need some sort of medical equipment." What does that have to do with the question before us? Again, you need to question what medical equipment are we talking about and what is the cost to everyday taxpayers?

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 member: Ann O'Connell (Chair), private citizen. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any environmental impact or impact on the public health, safety, and welfare. This rebuttal, with active hyperlinks, can also be found at www.nvsos.gov.

¹ Sales tax increase on ballot this fall in Washoe County, News 4 on Your Side, February 15, 2016, <http://mynews4.com/news/local/sales-tax-increase-on-ballot-this-fall-in-washoe-county>.

ARGUMENTS AGAINST PASSAGE

VOTE NO ON QUESTION 4!

Basic budget principles state that when expenses exceed revenues, debt is created. When the law requires state or local government agencies such as schools to be funded, the law expects a set amount of revenue to fund that agency. When a tax exemption reduces the amount of revenue expected, the agency has no choice but to request a replacement of the lost funding. To do that the agency must depend on the Governor and the Legislature to include the lost funding in the budget.

Sales taxes pay for a myriad of services Nevadans rely on including schools, police, fire departments, libraries, and parks, to name a few.

Question 4 seeks to exempt durable medical equipment from sales tax. On the surface, this exemption seems like a good thing, providing tax relief to those in need. However, this exemption is really a wolf in sheep's clothing:

1. It is vaguely worded without clear definitions of what specific devices will be exempt and who will benefit, leaving such determination to the Legislature;
2. It decreases an unknown amount of revenue from an already strained budget, creating the need for higher taxes in the future; and
3. It uses the law to provide special privileges to a special-interest group at the expense of everyday taxpayers.

Tax exemptions have consequences for the taxpayer; the same consequences as tax subsidies, tax breaks, tax abatements, and tax incentives. The Nevada Department of Taxation's *2013-2014 Tax Expenditure Report* states that Nevada has 243 such tax expenditures that cost taxpayers over \$3.7 BILLION a biennium.¹

Who is footing the bill for all those exemptions? You, the local taxpayer.

You should be mindful of the most recent government "giveaways," such as the approval of \$1.3 BILLION in subsidies to Tesla², \$215 MILLION in tax incentives to Faraday³, and \$7.8 Million in tax abatements to six different companies relocating to Nevada⁴.

Ask yourself, is Question 4 just another "giveaway," and is there any follow-up to see if promises made for these "giveaways" are promises kept?

The question also needs to be asked, isn't this just another burden on Nevada taxpayers? If it isn't, why in 2003 and again in 2015 did our governors go after a BILLION-plus dollars in tax increases⁵?

When the wolf comes huffing and puffing at your door, reject it. Vote NO on Question 4!

The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee member: Ann O'Connell (Chair), private citizen. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any environmental impact or impact on the public health, safety, and welfare. This argument, with active hyperlinks, can also be found at www.nvsos.gov.

¹ Nevada Department of Taxation, 2013-2014 Tax Expenditure Report, [http://tax.nv.gov/uploadedFiles/taxnvgov/Content/TaxLibrary/Tax Expenditure Report 2013-2014.pdf](http://tax.nv.gov/uploadedFiles/taxnvgov/Content/TaxLibrary/Tax%20Expenditure%20Report%202013-2014.pdf).

² Editorial: Tesla in the News, Las Vegas Review Journal, July 26, 2016, <http://www.reviewjournal.com/opinion/editorials/editorial-tesla-the-news>.

³ Faraday Future gets OK to begin grading at North Las Vegas site, Las Vegas Review Journal, July 28, 2016, <http://www.reviewjournal.com/business/economic-development/faraday-future-gets-ok-begin-grading-north-las-vegas-site>.

⁴ More tech companies moving to Nevada, Las Vegas Review Journal, July 25, 2016, <http://www.reviewjournal.com/business/more-tech-companies-moving-nevada>.

⁵ Assembly Bill 4, Senate Bill 2, and Senate Bill 8: 20th (2003) Special Session; Senate Bill 483: 78th (2015) Session.

REBUTTAL TO ARGUMENTS AGAINST PASSAGE

This is taxation at its worst, targeting the most vulnerable Nevadans. These aren't wealthy people paying sales tax for new cars. These are sick people required to pay taxes on the machines that keep them alive.

The real "wolf in sheep's clothing" is the pro-tax argument, which is misleading in three ways:

1. The proposal is not vague. Durable medical equipment is already defined in Nevada law.
2. The budget won't be hurt. The cities of Las Vegas and Reno both assessed the proposal, concluding that the impact will be immaterial. And, comparing this to the billions in tax breaks for Tesla is irresponsible – the annual impact of Question 4 will be less than one one-thousandth of that amount.
3. Lastly, this only benefits "special-interest groups?" How many of our neighbors need oxygen or a CPAP to breathe, a wheelchair to move, or a nebulizer to treat their child's asthma? How many babies need the protection of apnea monitors in their first weeks of life? Most Nevadans, or their families, will be impacted in their lifetimes.

Vote YES on Question 4 because there are better ways to fund the state than on the backs of our sick, injured, and dying.

The above rebuttal was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252. Committee members: Josh Hicks (Chair), Alliance to Stop Taxes on the Sick and Dying PAC; Doug Bennett, Alliance to Stop Taxes on the Sick and Dying PAC; and Dr. Joseph Kenneth Romeo, private citizen. Pursuant to NRS 293.252 (5)(f), the Committee does not believe the measure will have any environmental impact or impact on the public health, safety, and welfare. This rebuttal, with active hyperlinks, can also be found at www.nvsos.gov.

FISCAL NOTE

FINANCIAL IMPACT – CANNOT BE DETERMINED

OVERVIEW

Question 4 proposes to amend Article 10 of the *Nevada Constitution* by adding a new section, designated Section 7, that would require the Legislature to provide by law for an exemption from the sales and use tax for durable medical equipment, oxygen delivery equipment, and mobility enhancing equipment prescribed for human use by a licensed provider of health care acting within his or her scope of practice.

FINANCIAL IMPACT OF QUESTION 4

Under current law, the statewide sales and use tax rate is 6.85 percent. Four separate tax rates make up this combined rate:

- The State rate (2 percent), which is deposited in the State General Fund;
- The Local School Support Tax rate (2.6 percent), which is distributed among the state's school districts and to the State Distributive School Account;
- The Basic City-County Relief Tax rate (0.5 percent), which is distributed among counties, cities, and other local government entities through the Consolidated Tax Distribution (CTX) mechanism; and
- The Supplemental City-County Relief Tax rate (1.75 percent), which is distributed among counties, cities, and other local government entities through the CTX mechanism.

In addition, in thirteen of Nevada's seventeen counties (Carson City, Churchill, Clark, Douglas, Elko, Lander, Lincoln, Lyon, Nye, Pershing, Storey, Washoe, and White Pine), additional local sales and use tax rates are levied for specific purposes through legislative authority or by voter approval. The revenue from these tax rates is distributed to the entity or for the purpose for which the rate is levied.

If voters approve Question 4 at the November 2018 General Election, the Legislature and Governor would need to approve legislation to implement the sales and use tax exemptions specified within the question before these exemptions could become effective. The legislation providing an exemption from the sales and use tax for durable medical equipment, oxygen delivery equipment, and mobility enhancing equipment prescribed for human use by a licensed provider of health care acting within his or her scope of practice will reduce the amount of sales and use tax revenue that is received by the state and local governments, including school districts, currently entitled to receive sales and use tax revenue from any of the rates imposed, beginning on the effective date of the legislation.

However, the Fiscal Analysis Division cannot determine when the Legislature and Governor will approve the legislation necessary to enact these exemptions or the effective date of the legislation that is approved. Additionally, the Fiscal Analysis Division cannot determine how the terms specified within Question 4 would be defined in the legislation, nor can it estimate the amount of sales that would be subject to the exemption. Thus, the revenue loss to the affected state and local governments cannot be determined by the Fiscal Analysis Division with any reasonable degree of certainty.

The Department of Taxation has indicated that the implementation and administration of the exemptions specified within Question 4 can be performed using current resources, resulting in no additional financial impact upon state government.

Prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau – August 2, 2018

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

⁶ https://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>

¹¹ https://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.

The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee members: Lynn Armani-no 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 well-fare. This argument, with active hyperlinks, can also be found at www.nvsos.gov.

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

² [http://www.ncsl.org/documents/summit/summit2015/onlineResources/Legal Implications of Automatic Voter Registration.pdf](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.

The above rebuttal 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 rebuttal, with active hyperlinks, can also be found at www.nvsos.gov.

¹ 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

STATE QUESTION NO. 6

Amendment to the *Nevada Constitution*

CONDENSATION (Ballot Question)

Shall Article 4 of the *Nevada Constitution* be amended to require, beginning in calendar year 2022, that all providers of electric utility services who sell electricity to retail customers for consumption in Nevada generate or acquire incrementally larger percentages of electricity from renewable energy resources so that by calendar year 2030 not less than 50 percent of the total amount of electricity sold by each provider to its retail customers in Nevada comes from renewable energy resources?

YES ☐ NO ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure proposes to amend Article 4 of the *Nevada Constitution* to require all providers of electric utility services that sell electricity to retail customers for consumption in Nevada to meet a Renewable Portfolio Standard (RPS) that would go into effect beginning in calendar year 2022 and increase gradually until the RPS reaches 50 percent in calendar year 2030. According to the Public Utilities Commission of Nevada, an RPS establishes the percentage of electricity sold by an electric utility to retail customers that must come from renewable sources.

The measure requires the Nevada Legislature to provide by law for provisions, consistent with the language of the ballot measure, to implement the requirements of the constitutional amendment. These requirements include a mandate that each provider of electric utility service that sells electricity to retail customers for consumption in Nevada must generate or acquire electricity from renewable energy resources in an amount that is:

- For calendar years 2022 and 2023, not less than 26 percent of the total amount of electricity sold by the provider to retail customers in Nevada during that calendar year;
- For calendar years 2024 through 2026, inclusive, not less than 34 percent of the total amount of electricity sold by the provider to retail customers in Nevada during that calendar year;
- For calendar years 2027 through 2029, inclusive, not less than 42 percent of the total amount of electricity sold by the provider to retail customers in Nevada during that calendar year; and

- For calendar year 2030 and each calendar year thereafter, not less than 50 percent of the total amount of electricity sold by the provider to retail customers in Nevada during that calendar year.

The Nevada Legislature would have until July 1, 2021 to pass any law required to carry out the provisions of the constitutional amendment. Renewable energy resources is not specifically defined in the ballot measure; however, the language of the ballot measure indicates that renewable energy resources include solar, geothermal, wind, biomass, and waterpower.

The measure also contains a statement of policy that declares it is the policy of Nevada that people and entities that sell electricity to retail customers in Nevada be required to obtain an increasing amount of their electricity from renewable energy resources such as solar, geothermal, and wind. The statement of policy also declares that increasing renewable energy will reduce Nevada's reliance on fossil fuel-fired power plants, which will benefit Nevadans by improving air quality and public health, reducing water use, reducing exposure to volatile fossil fuel prices and supply disruptions, and providing a more diverse portfolio of resources for generating electricity.

A “Yes” vote would amend Article 4 of the *Nevada Constitution* to require all providers of electric utility services that sell electricity to retail customers for consumption in Nevada to generate or acquire an increasing percentage of electricity from renewable energy resources so that by calendar year 2030 not less than 50 percent of the total amount of electricity sold by each provider to its retail customers in Nevada comes from renewable energy resources.

A “No” vote would retain the provisions of Article 4 of the *Nevada Constitution* in their current form. These provisions do not require all providers of electric utility services that sell electricity to retail customers for consumption in Nevada to generate or acquire an increasing percentage of electricity from renewable energy resources.

DIGEST—Nevada's current Renewable Portfolio Standard (RPS) law is found in Chapter 704 of the *Nevada Revised Statutes* (NRS). Under current law, each provider of electric service in Nevada must generate, acquire, or save electricity from a renewable energy system or efficiency measures in an amount that is not less than 20 percent of the total amount of electricity the provider sells to retail customers in Nevada during the calendar year. Pursuant to current law, the RPS will increase to 22 percent for calendar years 2020 through 2024, inclusive, and finally it will increase to 25 percent for calendar year 2025 and each calendar year thereafter.

Approval of this ballot question would not change Nevada's current RPS law found in Chapter 704 of NRS. Instead, approval of this ballot question would add a provision to the *Nevada Constitution* that requires the Nevada Legislature, not later than July 1, 2021, to provide by law for provisions to implement the requirements of the constitutional amendment described in the Explanation in the previous section.

ARGUMENTS FOR PASSAGE

The Renewable Energy Promotion Initiative

Question 6 would require electricity providers to get at least 50 percent of Nevada's electricity from renewable sources like solar, wind, and geothermal by the year 2030. Nevada is one of America's sunniest states¹, yet we get only 20 percent² of our power from clean, renewable sources like solar. Instead, we spend \$700 million a year to import dirty fossil fuels from other states.³ Question 6 would change that.

A 'YES' vote on Question 6 would *provide a guarantee* that electricity suppliers get more electricity from renewable sources like solar. While Question 3 is a complicated debate about which utility companies will provide our electricity, Question 6 is simple. It is the only measure on the ballot that would guarantee we get more of our energy from renewable sources like solar and wind.

A 'YES' vote on Question 6 would *ensure cleaner air and healthier families*. By replacing dirty fossil fuels with clean energy, Question 6 would reduce emissions of toxic pollutants like sulfur dioxide that make our air less safe to breathe. Scientists have found that improved air quality will reduce asthma attacks and other respiratory illnesses⁴, and these health benefits will result in fewer hospital visits and school absences, saving Nevadans \$20 million per year.⁵

A 'YES' vote on Question 6 would *boost our economy*. Instead of sending \$700 million a year to other states for fossil fuels, Question 6 would lead to \$6.2 billion dollars of investment in Nevada and create 10 thousand new jobs.⁶

A 'YES' vote on Question 6 would *save Nevadans money*. The cost of clean energy is already cheaper than dirty energy sources: electricity from a new large-scale solar power plant in Nevada is 45 to 70 percent cheaper than electricity from a new power plant fueled with out-of-state gas.^{7,8} The cost of energy storage is declining fast⁹, making solar an even more attractive option.

Question 6 would leave a healthier, economically vibrant Nevada for future generations. We urge you to vote 'YES' on Question 6.

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: Dylan Sullivan, Warren Hardy, and Bob Johnston. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any negative fiscal impact. This argument, with active hyperlinks, can also be found at www.nvsos.gov.

¹ <http://wonder.cdc.gov/NASA-INSOLAR.html>

² <https://www.eia.gov/electricity/monthly/archive/february2018.pdf>

³ <https://www.eia.gov/state/data.php?sid=NV#ConsumptionExpenditures>

⁴ <https://www.ucsusa.org/clean-energy/renewable-energy/public-benefits-of-renewable-power#bf-toc-1>

⁵ <https://www.nrdc.org/experts/dylan-sullivan/50-renewables-nv-will-boost-investment-cut-pollution>

⁶ Id.

⁷ <https://www.lazard.com/perspective/levelized-cost-of-energy-2017/>

⁸ <https://www.utilitydive.com/news/nv-energy-23-cent-solar-contract-could-set-new-price-record/525610/>

⁹ <https://about.bnef.com/blog/tumbling-costs-wind-solar-batteries-squeezing-fossil-fuels/>

REBUTTAL TO ARGUMENTS FOR PASSAGE

The proponent's argument established why we *don't* need these energy ballot measures: their citation¹ demonstrates that energy mandates are reckless.

Funny fact: California pays Nevada to accept excess solar energy from *their* grid glut.² Do we want to become California, paying exorbitant energy bills caused by poor policy?³

Nevada applies steadiness to guide our industrious State towards renewable self-sufficiency. Representatives you vote for dutifully implement appropriate guidelines to adapt safe, reliable, affordable energy. Progress continues to advance within the renewable industry besieged with infancy. Allowing outsiders to handcuff Nevada is misguided.

Sad fact: California wild fires create vast amounts of Nevada's poor air quality.⁴ California should manage its forests instead of telling Nevadans what to do.

Don't fall prey to an impatient out-of-state billionaire with previous questionable motives.^{5,6} Say no to this outsider pouring millions of dollars⁷ into a PAC he personally started⁸ to rewrite⁹ our State Constitution.

Nevada's at the forefront of providing renewable energy¹⁰ while charging rates far below national average.¹¹ Vote 'NO' against schemes to remove money from hard-working Nevadans. Local prosperity demands prudence on *our* part.

Home means Nevada! Let Nevadans decide, not some San Francisco billionaire. Vote 'NO' on Ballot Question 6.

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: Don Gustavson (Chair) and Jerry Stacy. This rebuttal, with active hyperlinks, can also be found at www.nvsos.gov.

¹ <https://www.utilitydive.com/news/nv-energy-23-cent-solar-contract-could-set-new-price-record/525610/>

² <https://www.mnn.com/earth-matters/energy/blogs/california-generating-so-much-solar-energy-its-paying-other-states-take-it>

³ <https://www.cnbc.com/2017/02/06/californias-electricity-glut-residents-pay-more-than-national-average.html>

⁴ <https://knpr.org/headline/2018-08/california-wildfires-cause-poor-air-quality-nevada>

⁵ <http://www.foxnews.com/politics/2013/06/27/critics-accuse-keystone-foe-hypocrisy-over-oil-investment-history.html>

⁶ <https://www.washingtontimes.com/news/2014/mar/27/lee-terry-billionaire-poised-profit-block-keystone/>

⁷ <https://www.opensecrets.org/donor-lookup/results?name=Thomas+Steyer&cycle=&state=&zip=&employ=&cand=NextGen+Climate+Action>

⁸ <https://www.crunchbase.com/organization/nextgen-climate>

⁹ <https://www.nvsos.gov/SOSCandidateServices/AnonymousAccess/ViewCCEReport.aspx?syn=UGxq7tc4feLYMWu1%252bW5FNw%253d%253d>

¹⁰ <https://www.nvenergy.com/about-nvenergy/news/news-releases/nv-energy-exceeds-nevadas-renewable-requirement-for-eighth-straight-year>

¹¹ https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a

ARGUMENTS AGAINST PASSAGE

A constitutional mandate dictating energy policy is unnecessary and risky. Nevada's current Renewable Portfolio Standard is already set to increase to 25 percent by 2025.¹ This steady approach was carefully studied and executed by Nevada lawmakers and approved by the governor² to invest in Nevada's future to become the world's leader in renewable energy while at the same time protecting Nevadans against out-of-control rate hikes.

Passage of Question 6 would pour concrete language into the Nevada Constitution and recklessly pave a path putting ratepayers at risk by erasing Nevada's legislative ability to judiciously apply its own adjustments to our current Renewable Portfolio Standard.

Governor Sandoval expressed it best regarding a similar failed measure that proposed to confine the types of energy consumption Nevadans should be forced to rely on, when he wrote, *"If these aggressive new energy policies are enacted, it is the ratepayer who bears the risk of increased rates."*³

Green technology continues to evolve, and cost-effectiveness for storage and delivery continues to improve. Meanwhile, renewable energy is still dealing with birth pains. The representatives you vote for are better positioned to protect you when they're allowed to induct renewable energy policies based on merits, rather than mandates that serve to punish consumers and impose flawed policies.

The Nevada Legislature adopted its first Renewable Portfolio Standard in 1997.⁴ Higher standards were legislatively adjusted as technology improved.⁵ Prudence and patience are exercised to encourage innovation while protecting ratepayers. To do otherwise is to asphyxiate innovation and jeopardize the affordable supply of reliable energy Nevadans are currently allowed to purchase.

An energy crisis does not exist in Nevada. Ratepayers currently enjoy safe reliable delivery of energy at rates that are far below the national average.⁶ Do not confine choice by allowing the attachment of restrictive mandates into our Constitution. If renewable energy was already at a stage of superiority capable of competing on price, it wouldn't demand a constitutional mandate.

Nevada is better served by a legislative process that safely adjusts the proportional quantities of Nevada's power usage as technological developments continue to advance. Question 6 proposes to rip away our safety net by mandating rigid timeframes that removes the ability to consider ratepayer protections and impending technological improvements.

Mandates are unbending and unforgiving. The passage of Question 6 threatens to repress future innovation and wound our efficiency. Defend Nevada consumers by voting no on Ballot Question 6.

The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252. Committee members: Don Gustavson (Chair) and Jerry Stacy. This argument, with active hyperlinks, can also be found at www.nvsos.gov.

¹ http://puc.nv.gov/Renewable_Energy/Portfolio_Standard/

² <https://www.leg.state.nv.us/Session/75th2009/Reports/history.cfm?ID=768>

³ https://www.leg.state.nv.us/Session/79th2017/Reports/VetoMessages/AB206_79th_VetoMessage.pdf

⁴ <https://www.leg.state.nv.us/NRS/NRS-704.html#NRS704Sec7801>

⁵ https://www.leg.state.nv.us/Session/75th2009/Bills/AB/AB387_EN.pdf

⁶ https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a

REBUTTAL TO ARGUMENTS AGAINST PASSAGE

Nevada was a national leader when we established our renewable energy standard in 1997, but even with 300 days of sun, we are still getting just 20% of our electricity from renewable energy¹ — and now we're falling behind.

Thirteen states, including Colorado and Oregon, have renewable standards stronger than Nevada's, and five have recently passed standards the same or higher than the one proposed here.² These states are seeing solar and wind energy expand quickly, driving innovation, boosting their economies, and providing electricity at much cheaper prices than anyone had imagined just a few years ago.

In fact, since lawmakers last raised Nevada's standard in 2009³, the cost of solar has fallen 86%⁴, and it's only getting cheaper. Economists say that wind and solar will be soon be significantly less expensive than fossil fuels⁵ — after all, the wind and sun are free.

Nevada voters need to act, because we can't rely on big energy companies alone to take action. Question 6 is the only measure on the ballot that will guarantee electric utilities keep their promise to move us to renewable energy, while maintaining flexibility so future legislatures can raise standards as technology improves.

Vote 'YES' on Question 6.

The above rebuttal was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252. Committee members: Dylan Sullivan, Warren Hardy, and Bob Johnston. Pursuant to NRS 293.252(5)(f), the Committee does not believe the measure will have any negative fiscal impact. This rebuttal, with active hyperlinks, can also be found at www.nvsos.gov.

¹ <https://www.eia.gov/electricity/state/nevada/>

² <http://eta-publications.lbl.gov/sites/default/files/2017-annual-rps-summary-report.pdf>

³ <https://www.leg.state.nv.us/Statutes/75th2009/Stats200914.html#Stats200914page1399>

⁴ <https://www.lazard.com/media/450337/lazard-levelized-cost-of-energy-version-110.pdf>

⁵ <https://www.usatoday.com/story/money/energy/2018/04/04/energy-costs-renewables-close-fossil-fuels-challenging-price/485210002/>

FISCAL NOTE

FINANCIAL IMPACT – CANNOT BE DETERMINED

OVERVIEW

Question 6 proposes to amend Article 4 of the *Nevada Constitution* by adding a new section that would create a minimum standard for the amount of electricity generated or acquired from renewable resources by each provider of electric utility service that is engaged in the business of selling electricity to retail customers in Nevada. The minimum standard would begin at 26 percent of all electricity sold at retail in Nevada in 2022 and would increase incrementally in successive calendar years until the standard reaches 50 percent of all electricity sold at retail in Nevada in 2030. The Legislature would be required to pass legislation to implement these requirements no later than July 1, 2021.

FINANCIAL IMPACT OF QUESTION 6

Pursuant to Article 19, Section 4 of the *Nevada Constitution*, a ballot question proposing to amend the *Nevada Constitution* must be approved by the voters at two successive general elections in order to become a part of the *Constitution*. If Question 6 is approved by voters at the November 2018 and November 2020 General Elections, the provisions of the question would become effective on the fourth Thursday of November 2020 (November 26, 2020), when the votes are canvassed by the Supreme Court pursuant to NRS 293.395.

The Fiscal Analysis Division cannot determine how the constitutional provisions of Question 6 will be implemented by the Legislature or which state agencies will be tasked with implementing and administering any laws relating to increasing electricity from renewable energy sources. Thus, the Fiscal Analysis Division cannot determine the impact upon state government with any reasonable degree of certainty.

Additionally, the passage of Question 6 may have an effect upon the cost of electricity sold in Nevada, including the electricity that is purchased and consumed by state and local government entities. The Fiscal Analysis Division is unable to predict the effect that these provisions may have on the cost of electricity in Nevada beginning in calendar year 2022 or the amount of electricity that may be consumed by these government entities beginning in that calendar year; thus, the financial effect upon state and local governments with respect to potential changes in electricity costs cannot be determined with any reasonable degree of certainty.

Prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau – August 7, 2018

COUNTY QUESTION NO. 1

This Question is Advisory Only

Shall the Douglas County Board of Commissioners implement an increase in the existing tax on the privilege of new real property development in Douglas County up to the maximum amounts allowed under NRS 278.710 for the purpose of funding road construction and maintenance project costs or bonds?

YES ☐ NO ☐

DIGEST

Douglas County presently imposes a tax on the privilege of new real property development in Douglas County in the amounts of \$500.00 for each new single family dwelling unit, and \$.50 cents per square foot for any other non-residential development. *Nevada Revised Statutes* (NRS) Chapter 278.710 currently allows the Douglas County Board of Commissioners to implement a \$900.00 tax before July 1, 2020 and a \$1,000.00 tax after July 1, 2020 on each new single family dwelling unit of new residential development. NRS Chapter 278.710 also allows the Douglas County Board of Commissioners to implement a \$.90 cents per square foot tax before July 1, 2020, and a \$1.00 per square foot tax after July 1, 2020 on any other new non-residential development. Proceeds from these taxes must be used for projects related to construction or maintenance of public roads, and the tax proceeds may be used to pay for bonds to fund such projects.

FINANCIAL EFFECT

If the proposed tax increases are implemented: 1) under current Nevada law, the annual impact on a developer of new residential property would be \$900.00 for each new single family dwelling unit completed before July 1, 2020, and \$1,000.00 for each new single family dwelling unit completed after July 1, 2020; the annual impact on a developer of new non-residential property would be \$.90 per square foot for development completed before July 1, 2020, \$1.00 per square foot for development completed after July 1, 2020; 2) there would be no end date specified in the ordinance implementing the tax; 3) revenue bonds may be sold from the tax proceeds backed by the full faith and credit of the assessed value of Douglas County; and 4) Douglas County may incur additional expenses for the operation and maintenance of any road projects that are constructed or improved from the proceeds of the tax.

The result of the vote on this advisory question does not place any legal requirements on the Douglas County Board of Commissioners, any member of the Board, or any officer of Douglas County.

ARGUMENT FOR PASSAGE

“Most residents agree that new development should pay its own way and should not be a burden to existing residents.” That quote is from the Introduction to our 1966 Master Plan. There is no evidence that new growth has paid for itself, however, especially when it comes to roads, which have continued to deteriorate despite substantial growth. This ballot question allows residents the opportunity to partially correct that by making new development contribute as much as state law allows to fund road construction and maintenance.

In the 20 years from 1990 to 2010 the population of Douglas County increased by more than 70%. Rather than staying ahead of the curve on road maintenance and conditions during that period of strong growth, however, roads continued to deteriorate. Since then, the Pavement Conditions Index, a broad measure of the overall condition of the county's roads, has continued to worsen. This is in part because growth has not paid for itself.

Let's be clear: this ballot question will not raise taxes on existing residents (except those who may build new homes). It would only increase the tax on new development. Starting in 1996, Douglas County levied a tax of \$500/unit on residential development and \$0.50/sq.ft. on other development the maximum allowed by state law at that time. Since then the State has raised those maximums four times, but Douglas County has not adopted those increases, despite the deteriorating condition of our county roads. This ballot question would allow Douglas County to increase those taxes on new development to \$900/residential unit and \$0.90/sq.ft for non-residential to improve roads.

From 1996 to 2017 the median sales price of a residence in Douglas County increased by 135%. The proposed tax of \$900 on new development would actually be a lower percentage of the 2017 average sales price than the \$500 was in 1996. The increase would be less than 0.1% percent of the median price of a new house. As such it would have a negligible effect on sales or affordability.

Since 2016 Douglas County has both raised the gas tax by \$0.05/gallon and authorized up to \$13 million dollars in bonds for road improvements. Both of these are paid by anyone who buys fuel in Douglas County, which includes most residents. This proposed tax increase on new development would ensure that development at least pays more of its own way, and that it would be less of a burden on existing taxpayers.

REBUTTAL TO ARGUMENT FOR PASSAGE

While likely still true, the 1996 Master Plan claim “Most residents agree that new development should pay its own way and should not be a burden to existing residents” bears only a whiff of a connection to what voters are being asked to weigh in on by this question.

To suggest the nearly doubling of the Tax on the Privilege of New Real Property Development (Road Tax) “for the purpose of funding road construction and maintenance project costs or bonds” will do anything significant toward making development “pay its own way” is ludicrous.

New developments with new roads do not burden Douglas County with “maintenance project costs or bonds.” Decades of inadequate budgeting of funding for maintenance of older roads has led us to where we are now, and “inadequate budgeting” had nothing to do with the Road Tax. Even new roads in new developments aren’t funded through the Road Tax. Douglas County has only constructed a portion of a single new road in more than 3 decades. If a new road is needed due to the impact of the development, it is made a requirement for the developer to furnish, *in addition to paying the Road Tax*.

The current Road Tax brings in two to five hundred thousand dollars every year. Douglas County’s roads need tens of millions of dollars in maintenance to bring them up to good condition. In most instances, what is developed (be it houses, commercial or industrial buildings) incurs property taxes, and it is these taxes that contribute the lion’s share of the money into Douglas County’s coffers that is supposed to cover road maintenance.

From this standpoint, the raising of the Road Tax is a distraction from the real problem Douglas County is experiencing. That problem is after paying the county’s current expenses set by the budget put in place by the commissioners, the amount left over falls dramatically short of what should be directed toward roads and infrastructure. Tens of millions are spent instead for projects like the Community and Senior Center (16.9M). Tens of millions more over the next few decades are projected to be diverted from the General Fund to the Lake Redevelopment Agency to fund redevelopment projects, possibly including a proposed \$80M event center.

When re-ordering Douglas County’s priorities is the real solution, don't facilitate a “feel good” placebo aimed at developers.

Vote no on this question. It’s bad for Douglas County and bad for county residents.

ARGUMENT AGAINST PASSAGE

Vote no on this question. It’s bad for Douglas County and bad for county residents.

A Tax on the Privilege of New Development (Road Tax) increase works against affordable housing. It makes a new residence in Douglas County even more costly. Besides the Road Tax, Douglas County mandates that single-family residential developers pay a Park Tax, Plan Check Fee, Building Permit Fee, and numerous other fees per house in order to build. The county also has dozens of other fees that might apply to a project overall. How much more does Douglas County need?

Douglas County has suffered from a lack of commercial development. This advisory question now, just when the economy is improving, to also raise the commercial development Road Tax to its maximum, is out of line with efforts to attract more businesses within its boundaries.

Plus, it's not as if these Road Tax increases will end up adding funding or anything to fix what's wrong with our roads. The county can simply reduce its contribution for that purpose from other sources (and spend that money on some new, trendy program or project), and its roads will still be deteriorating and unmaintained. The problem is not a lack of money; the problem is a lack of will to make infrastructure a top priority.

Moreover, and definitely troublesome, the question is vague and leaves voters uninformed as to just what amounts of tax increases they are considering. As worded, the question is asking voters to recommend, in advance, the implementation of whatever *future* tax increase amounts the state legislature may decide to insert in Nevada Revised Statutes 278.710. Taxes come out of the pockets of hard-working taxpayers, and so a lack of transparency does not serve the public interest, but rather allows government to act without accountability. Voters deserve a clear understanding of what they are voting for.

Don't further burden developers for Douglas County's failure to take care of its roads as required by law. Douglas County has been collecting this Road Tax for 20 years, and the poor condition of our roads shows how useless and even detrimental to getting Douglas County to pay attention to and allocate resources toward meeting this most basic of its obligations is. Approving an increase in the Road Tax under this question will only encourage Douglas County to continue down the path of fiscal irresponsibility and mismanagement.

REBUTTAL TO ARGUMENT AGAINST PASSAGE

Almost no existing residents of Douglas County would pay any additional taxes if this proposed tax was imposed. This is a tax on new development only, and hence would only affect those who plan to build a new home or other development. The new tax collected would only be used for road construction and maintenance, which would help improve our deteriorating roads. For nearly all residents it would mean better roads without any additional taxes.

The additional \$400 tax on the construction of a new home is designed to make development pay more of its own way, rather than be a burden on existing residents. This is a sentiment shared by most residents, according to our 1996 Master Plan. This proposed added tax on a new home would be less than 0.1% of the price of the average new home in Douglas County, and would be unlikely to have any effect on sales or affordability. This tax could even be rolled into a 30-year mortgage, adding minimally to the monthly premium.

This proposed tax will primarily be paid by developers. While they will undoubtedly try to pass that cost on to home buyers, the ultimate price will be determined by market forces. Perhaps the developers, some of whom make millions of dollars on each of their developments, will end up paying the tax themselves, and just make a little less profit.

While we all like lower taxes, most people also expect good service and infrastructure from the county. It's unfortunate that past County Commissioners allowed the roads to deteriorate during the decades of high growth leading up to the "Great Recession" that started in 2008. Our current Commissioners have finally come to realize that we must better maintain our roads before they get even worse and cost even more to improve. This proposed added tax on new development would help them better achieve that mission. Otherwise our roads will continue to get worse and worse, and the future cost will be even more burdensome, and more of that burden will undoubtedly fall on existing residents.

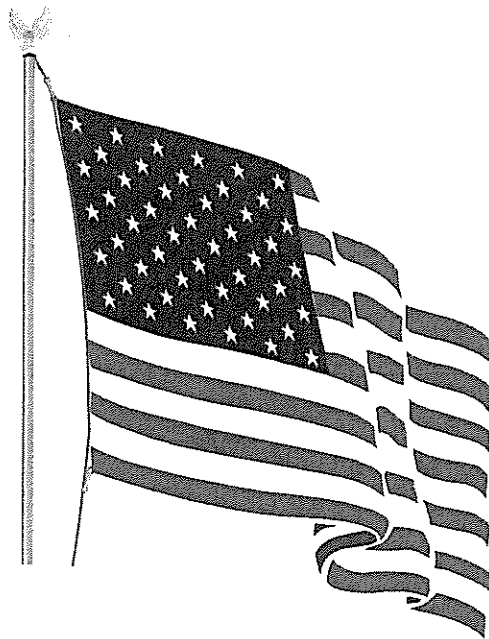
To summarize: nearly all residents would not pay any additional taxes, since this is only a tax on new development, yet Douglas County would have more money for road maintenance and construction. That sounds like a good deal for most county residents.

Vote YES on this ballot question!

NOTES

NOTES

VOTE



*YOUR VOTE
MAKES A
DIFFERENCE*

Kathy Lewis
Douglas County Clerk
Treasurer/Elections
P.O. Box 218
Minden, Nevada 89423



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NOTE: To request a mail-in ballot for the November 6, 2018 General Election, you must submit a written request before 5:00 p.m., Tuesday, October 30, 2018.

WARNING: A person who is entitled to vote shall not vote or attempt to vote more than once at the same election. Any person who votes or attempts to vote twice at the same election is guilty of a category D felony. (NRS 293.780)

VOTER ASSISTANCE STATEMENT

The County Clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate material to assist the voter. (NRS 293.565)