

**MINUTES OF THE  
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-ninth Session  
March 6, 2017**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Nicole J. Cannizzaro at 3:33 p.m. on Monday, March 6, 2017, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Nicole J. Cannizzaro, Chair  
Senator Tick Segerblom, Vice Chair  
Senator Kelvin Atkinson  
Senator James A. Settelmeyer  
Senator Heidi S. Gansert

**STAFF MEMBERS PRESENT:**

Michael Stewart, Policy Analyst  
Brenda Erdoes, Legislative Counsel  
Kevin Powers, Counsel  
Jan Brase, Committee Secretary

**OTHERS PRESENT:**

Terri Albertson, Director, Department of Motor Vehicles  
Joe Gloria, Registrar of Voters, Clark County  
Wayne Thorley, Deputy Secretary for Elections, Office of the Secretary of State  
Kathy Lewis, Clerk-Treasurer, Douglas County  
Sue Merriwether, Clerk-Recorder, Carson City  
Mikey Kelly  
Matthew DeFalco  
Alex Goff  
Steve Horner  
Rick Cornstuble  
Mary Dungan

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Rick Koss  
Nancy Scott, League of Women Voters  
Robert Conway, Ironworkers, Local 433  
Bonnie McDaniel  
Julie Hereford

CHAIR CANNIZZARO:

I will open the hearing on Initiative Petition (I.P.) 1.

**INITIATIVE PETITION 1**: Revises provisions relating to voter registration.

KEVIN POWERS (Counsel):

The interpretation of Article 19 of the Nevada Constitution governs initiative petitions that propose statutes or amendments to statutes known as statutory initiatives. Article 19 also addresses constitutional initiatives that propose constitutional amendments and initiatives that seek to place a referendum of an existing statute on the ballot. We will focus on the statutory initiative process.

Article 19 is interpreted to outline legislative procedures and options. When interpreting provisions of the Nevada Constitution, courts apply the same rules of construction they apply to statutes. Under those rules, the primary task is to ascertain the intent of the framers and to adopt an interpretation that best captures their objective.

The first step of constitutional analysis is to look at the language of the provision. Sometimes, constitutional provisions are ambiguous, uncertain, unclear or silent on a matter. When this occurs, we apply the rules of statutory construction to interpret the framers' intent and to best capture that intent. Once we apply the rules of constitutional construction, we look to the subject matter of the provision, its legal effects and consequences, and to the spirit of the provision. When interpreting a constitution, no provision is read in isolation. Instead, all constitutional provisions must be interpreted together and in harmony. The provisions of Article 19 need to be interpreted in conjunction with Article 4, for example, that govern the legislative procedure and the process for enacting legislation.

With regard to statutory initiatives, Article 19, section 2, subsection 3, outlines three stages: the circulation stage, the legislative stage and, if necessary, the election stage. The circulation stage is the filing of the initiative petition with the

Secretary of State's (SOS) Office and the process of gathering signatures. Once the signatures are gathered, the petitions are returned to the SOS and county clerks. Signatures are verified and counted. The circulation stage has been completed for I.P. 1. It has been verified there are a sufficient number of signatures to move the petition to the legislative stage.

Under the legislative stage, the SOS has a duty on the first day of Session to deliver the initiative petition to the Legislature. Traditionally, statutory initiative petitions are delivered to the Assembly first, and that has been a consistent practice over the years. Initiative Petition 1 was delivered to the Assembly this Session. Under Article 19, section 2, subsection 3, the Legislature has 40 days, inclusive of the first day, to consider whether to enact the initiative petition into law. The Constitution specifically requires the Legislature to do so without change or amendment.

If the Legislature completes the process within the 40-day time period, the initiative petition falls under the ordinary legislative process found in Article 4. The Governor's role is to perform the process required under ordinary legislation. Within five days, the Governor must sign and approve the initiative petition or reject it through a veto and send it back to the Legislature. If the Governor does neither within that period, the initiative petition becomes law without his or her signature. It is important to understand that the 40-day period only covers action by the Legislature, not the process involving the Governor's signature or veto.

If the Legislature this Session acts within the 40-day period and the Governor approves I.P. 1, or a veto is overridden by the Legislature or it becomes law without the Governor's signature, then the initiative petition becomes law as an ordinary statute. It is the opinion of the Legal Division of the Legislative Counsel Bureau that if the initiative petition were to become law under this procedure, the Legislature could then amend the legislation. However, the constitutional provision is silent on the matter. Based on the rules of constitutional construction and the ordinary status of statutes, we believe the Legislature could amend the initiative petition only if it had been enacted into law during this Session under the ordinary process.

If the required process does not occur and the initiative petition is not enacted as required by Article 19, it goes to the ballot in November 2018. If the voters approve it, it becomes statutory law. There is a provision in the Constitution

prohibiting the Legislature from changing, altering, amending, repealing or in any way revising the law for a three-year period after it becomes effective. It will become effective on the canvass of the votes in November 2018 if the voters approve the measure at the general election.

During the legislative stage, the Legislature has one other option. The Legislature can propose an alternative ballot measure that would go to the general election ballot and compete against the initiative petition. The Constitution allows for the Legislature to propose a different measure on the same subject. The 40-day time limit does not apply in this case. Although Article 19 is silent on the procedures for the process, obviously Article 4 applies. A competing ballot measure would be, ultimately, an ordinary statute. The Legislature and the Governor must enact the competing measure in the same way any bill would be enacted into law.

If the Legislature proposes a competing measure on the same subject, both would be submitted to the voters at the next general election. At that time, the voters may reject both of the measures, pass one and reject the other, or pass both measures. If both are passed by the voters, the measure with the most affirmative votes becomes law.

SENATOR SEGERBLOM:

Can you restate the Legislature's options for amending the measure?

MR. POWERS:

If I.P. 1 is enacted into law, then it is an ordinary statute. It is the opinion of the Legal Division that the Legislature retains its power to amend it at that point, either during this Session or in subsequent sessions. Article 19 is silent on the issue, but our office has applied the rules of constitutional construction and determined that the Legislature has that authority. The language of the Constitution states the Legislature can enact an initiative petition into law in the same manner as other statutes are enacted. Once it is enacted, in theory, the Legislature should be able to amend it in the same manner as other statutes are amended.

SENATOR SEGERBLOM:

If the Legislature does not approve I.P. 1 and it goes to the ballot, does the 30-month rule apply?

MR. POWERS:

That is correct. If I.P. 1 goes to the ballot in November 2018 and the voters approve it, the Legislature will be prohibited from repealing, amending, revising or in any way changing the initiative petition for three years.

MICHAEL STEWART (Policy Analyst):

Initiative Petition 1 establishes a system for automatic voter registration or the updating of existing voter registration information for persons who apply to the Department of Motor Vehicles (DMV) for the issuance or renewal of any type of driver's license or identification card (ID), or apply to the DMV for a change of address on an existing driver's license or identification card unless the person, at the time of each such application, affirmatively declines or opts out, in writing, from such automatic voter registration or the updating of his or her existing voter registration information.

Because I.P. 1's system for automatic voter registration applies expressly to persons who apply for driver's licenses or identification cards from the DMV, it does not apply to persons who apply for the issuance or renewal of a driver authorization card from the DMV pursuant to *Nevada Revised Statutes* (NRS) 483.291.

Section 2 requires the SOS, the DMV and each county clerk to cooperatively establish the system that the DMV will use to transmit voter registration information to the SOS and county clerks. Section 2 also sets forth requirements for the system, including that it must ensure the secure electronic storage and electronic transmission of voter registration information and provide for the DMV's destruction of the information after it is transmitted to the SOS and appropriate county clerk. Section 2 also requires the system to enable the county clerks to receive, view and collate the information into individual electronic documents.

Sections 3 to 6 require the DMV to follow certain procedures and gather certain voter registration information when a person applies to the DMV for the issuance or renewal of any type of driver's license or identification card, or for a change of address on an existing driver's license or identification card.

Specifically, section 3 provides that when a person makes such an application, the DMV must provide the person with certain information concerning automatic voter registration before concluding the person's DMV transaction.

First, the DMV must inform the person of the qualifications to vote in this State as provided in NRS 293.485. The person must be a United States citizen and at least 18 years of age at the time of the next election; the person must reside in this State and in the county for at least 30 days and in the precinct for at least 10 days immediately preceding the next election; and, finally, the person must be legally registered to vote before the next election.

Secondly, section 3 provides that the DMV must inform the person that, unless he or she affirmatively declines or opts out in writing, the DMV will transmit to the SOS and the appropriate county clerk all information about the person that is necessary to either register the person to vote or, if the person is already registered to vote, update the person's voter registration information.

Section 3 also provides that the DMV must inform the person that with automatic voter registration, he or she may select a political party affiliation but is not required to do so, and that if the person does not select a political party affiliation, the person may not vote for candidates for partisan offices at primary elections unless the person updates his or her voter registration to indicate a major political party affiliation.

Finally, section 3 provides that the DMV must inform the person that the decision of whether to participate in or opt out of automatic voter registration will not affect the person's transactions with the DMV or the DMV's services; the person's decision cannot legally be disclosed to the public; and any information collected by the DMV for automatic voter registration cannot legally be used for any purpose other than voter registration.

Section 4 provides that if the person does not affirmatively opt out in writing from automatic voter registration, the DMV will collect from the person: a paper or electronic affirmation, signed under penalty of perjury, that the person is eligible to vote in this State; an electronic facsimile of the person's signature; any personal information which has not already been provided by the person to the DMV but which is required for the person to register to vote or update voter registration, such as the person's full name, date of birth, residential address, and any political party affiliation selected by the person; and either the last 4 digits of the person's social security number or the number of the person's current and valid driver's license or ID card issued by the DMV.

If the person does not have a social security number or a current and valid driver's license or ID card, the person must sign an affidavit stating as such, and the affidavit is transmitted to the appropriate county clerk. The county clerk must then issue an identification number to the person, which must be the same number as the unique identifier assigned to the person for the statewide voter registration list. It should be noted that this last provision is intended to mirror an identical provision in the general voter registration statute in NRS 293.507.

Section 5 requires the DMV to electronically transmit to the SOS and appropriate county clerk where the person resides all of the information and documents collected from a person for automatic voter registration not later than 5 business days after receipt. However, during the last few weeks of voter registration, before registration closes for an election, the DMV must transmit this information on a daily basis.

Sections 6 and 16 set forth the responsibilities of county clerks upon receiving voter registration information from the DMV. If the person is already registered to vote, the county clerk must use the information transmitted from the DMV to update the person's registration information on the statewide voter registration list. If the person is not already registered to vote, the county clerk must collate the person's registration information into an individual electronic document which becomes that person's application to register to vote. The county clerk must determine whether the application is complete and has all of the required information. If the application is complete, the person is now registered to vote, and the county clerk must add the person's name to the statewide voter registration list. If the application is not complete, the county clerk must notify the person that additional information is required in order to complete the person's application.

Sections 7 and 15 provide that if the person affirmatively opts out in writing from automatic voter registration, he or she may still register to vote at the DMV using a paper application pursuant to NRS 293.524. Sections 7 and 17 also specify that the decision of whether to participate in or opt out of automatic voter registration must not affect the person's transactions with the DMV or the DMV's services; the person's decision cannot legally be disclosed to the public; and any information collected by the DMV for automatic voter registration cannot legally be used for any purpose other than voter registration. Section 17 adds section 7 as a specific exception to the Public Records Law in NRS 239.010.

Section 7 also directs the SOS to adopt any regulations necessary to carry out the automatic voter registration program. The SOS cannot require a person to provide any additional documentation to the DMV that is not otherwise required by I.P. 1 or federal law, including, without limitation, additional documentation to prove the person's identity, citizenship or residence.

Section 8 provides that on and after the date on which a person is deemed to be a registered voter under the automatic voter registration program, the person may sign any petitions authorized under the election laws of this State, such as petitions for initiative or referendum, or petitions to nominate candidates.

Section 9 makes conforming changes in the bill.

Section 10 addresses persons who are registered to vote under the automatic voter registration program, but who have not previously voted in an election for federal office. Under existing law, with limited exceptions, if a person registers to vote by mail or computer, the first time the person votes in an election for federal office, he or she must show certain types of proof of identification and residency. Section 10 provides that a person who registers to vote through the automatic voter registration program does not have to show such proof of identification and residency when voting for the first time, if the person already provided such proof of identification to the DMV when he or she registered to vote under the automatic voter registration program.

Section 11 amends existing requirements that apply to the DMV as a voter registration agency. Under existing law, the DMV and all other voter registration agencies must distribute paper mail-in voter registration applications to persons who apply to the voter registration agencies for services. Section 11 creates an exception for the DMV when it provides services to persons who participate in the automatic voter registration program.

Section 12 provides that when county clerks receive applications through the automatic voter registration program, the county clerks must segregate the applications in a computer file according to precinct or district, as appropriate, and arrange the applications in each precinct or district in alphabetical order. This is similar to how county clerks must segregate and arrange other types of voter registration applications under existing law.

Section 13 adds the automatic voter registration program to the list of authorized methods of voter registration under existing law.



Section 14 addresses political party affiliation in the registration process. Under existing law, the general rule is that a person must either select a political party affiliation or indicate that he or she is not affiliated with a political party at the time the person registers to vote. However, because a person who participates in the automatic voter registration program is not required to select a political party affiliation at the DMV, section 14 provides an exception to this general rule. If the person does not select a political party affiliation at the DMV, the person will be listed as “nonpartisan” on voter registration lists, but the person may, at a later time, update his or her voter registration with the county clerk and select a political party affiliation.

Section 15 was discussed earlier as it relates to paper ballots. Section 16 was referenced earlier in section 6 as it relates to notifying the voter when his or her name is added to the statewide voter registration list or when his or her voter information is updated under the automatic voter registration program.

Section 16 provides that this notice may be sent via electronic mail if the voter has confirmed the validity of the email address.

Section 17 was referenced above as part of the section 7 description.

Sections 18 and 19 make conforming changes to the statutes governing applications for driver’s licenses and ID cards to indicate that, if eligible, the applicant may be registered to vote at the DMV under the automatic voter registration program.

Finally, section 21 is the effective-date clause. If I.P. 1 is enacted into law this session in accordance with the Nevada Constitution, it becomes effective on January 1, 2018. However, if I.P. 1 is not so enacted into law but instead is submitted to the voters and approved at the 2018 general election, it becomes effective upon completion of the canvass of votes by the Nevada Supreme Court after the 2018 general election. Under such circumstances, it could not be “amended, annulled, repealed, set aside or suspended by the Legislature within three years from the date it takes effect.”

SENATOR SETTELMAYER:

How does I.P. 1 address the issue of opting-out as opposed to opting-in to the voter registration process? Statute requires an opt-in provision. Initiative Petition 1 requires action, an active decision to opt out. Individuals

may have personal beliefs regarding the electoral process. These are individuals who do not choose to participate, in any way, based on religious beliefs.

Section 5 (a)(1) of the National Voter Registration Act (NVRA), 52 USC section 20504(a)(1), states:

Each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application.

The National Voter Registration Act is an active declaration. The proposed initiative changes the process to a passive declaration. Does federal law supersede state law?

MR. POWERS:

The National Voter Registration Act sets the bare minimum for states and how they are required to comply with voter registration for federal offices. States on their own can provide a system that meets the federal requirements and then can exceed them. The goal of the NVRA is to increase voter registration. At a minimum, voters at the DMV must be provided with the option to opt in. This satisfies the federal law.

Initiative Petition 1 would achieve this purpose. The voter would be presented with an opportunity to opt out. If they do not opt out, the voter would be registered. The result is the same. Voter registration is encouraged. Customers are provided with needed information at the DMV and given the opportunity to opt in or opt out. Initiative Petition 1 exceeds federal requirements and therefore, the Legal Division has determined I.P. 1 is not preempted. The ultimate goal is to increase voter registration.

SENATOR SETTELMAYER:

I appreciate the description of the floor and the ceiling. I agree with going to the intent of the legislation when the language is vague. Section 20504(a)(1) of the NVRA is clear. When voters fail to sign the voter registration form, they are not registered to vote under federal law.

MR. POWERS:

Initiative Petition 1 is not automatic voter registration. It is automatic transmittal of voter information to county clerks who then register voters who did not opt out at the DMV. At the DMV, customers are completing paperwork as anticipated by the federal law. There is active participation. If customers choose to opt out of the process, they must do so at the DMV office when the forms are presented. If customers choose to opt in, they will sign the forms and the process continues.

TERRI ALBERTSON (Director, Department of Motor Vehicles):

In March 2015, the DMV and the SOS were noticed by Demos and Project Vote of Nevada's noncompliance with section 5 of the NVRA. In short, the NVRA requires the DMV to provide a voter registration opportunity simultaneously with any driver's license or identification card application, including a renewal application or a change of address. Since that time, the DMV has been working in cooperation with the Americans Civil Liberties Union, Demos and the SOS to become compliant with the NVRA and to develop an interface to allow for the electronic transmission of voter data. That system was implemented on February 13.

Updated DMV-compliant forms have been provided ([Exhibit C](#)). In the past, the driver's license or identification card application required customers to mark a box to request a separate voter registration application. Now, with the compliant form, each driver's license or identification card application is issued with a voter's registration application attached. Every person who comes in to a DMV office for an original, renewal or change-of-address application receives a simultaneous form. The voter registration/change of address box states:

Pursuant to federal law, you may register to vote through the DMV. If you have not previously registered to vote in Nevada or if you would like to make an update to a current Nevada voter registration, you may do so by completing the additional information on page 3 of this application, including the signature box.

This is referred to as the short form for voter registration. This is the opt-in option. If customers want to register to vote, they simply complete page 3 of the application. The forms are available in English and Spanish across the State. Forms in Tagalog are also available in Clark County.

We have also been in negotiations with the ACLU and Demos for over a year on a memorandum of understanding (MOU), so it is important to note the DMV must remain compliant with the NVRA. The MOU contains mutual agreements from the parties on forms, signage, procedures, training, oversight, monitoring and reporting. The language in the application was negotiated with the parties to ensure compliance with the NVRA.

Initiative Petition 1 was filed with the SOS in August 2016. Both the SOS and the DMV were asked to provide a fiscal analysis for implementing the provisions in I.P. 1. With the assumptions that the DMV would have already established the interface with the SOS, our estimate was \$53,000 for a one-year supply of updated forms, half of which would be borne by the State Highway Fund and the other half by the State General Fund. At this time, it is estimated that sufficient authority is contained in our proposed budget to cover these costs.

The SOS's Office provided four scenarios relating to the implementation of I.P. 1. The options ranged from DMV working directly with the county clerks and registrars to develop a system to electronically transfer voter registration information up to a new statewide database at a cost of approximately \$4.8 million. The DMV and SOS have successfully implemented scenario two as described in the Financial Impact of the Automatic Voter Registration Initiative which was prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau on February 14 ([Exhibit D](#)).

The revised application forms serve to meet the NVRA requirement in section 19 of I.P. 1 of a simultaneous application for voter registration and application for a driver's license. This section of the NVRA states:

Each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application.

This requirement is covered on the license application in the first box under voter registration or address change.

Section 3, subsection 2, paragraph (b); section 4, subsection 1; and section 6, subsection 1 of I.P. 1 require that "unless the person affirmatively declines in

writing to apply to register to vote or have his or her voter registration information updated, as applicable," the person is deemed to have consented to the transmission of information for the purpose of registering to vote or updating voter registration information.

For the record, this is an apparent conflict between the NVRA and I.P. 1 which could be problematic. We have also provided you with a mockup of the driver's license application ([Exhibit E](#)) as it may appear in order to comply with the NVRA and I.P. 1, allowing the customer to register to vote by completing and signing the voter registration application on page 3 and adding a check box stating, "I do not want to register to vote" to the voter registration or address change box. This conflict arises if a customer signs the Voter Registration Application page but simultaneously checks the I.P. 1 opt-out box. Future advocacy groups will likely have grounds to challenge the I.P. 1 opt-out box as a weakening of the NVRA's automatic registration provision. This apparent conflict will occur regardless of whether I.P. 1 is approved by the Legislature this Session or approved by the voters in 2018.

CHAIR CANNIZZARO:

Can you offer more information regarding the fiscal impact?

MS. ALBERTSON:

The DMV portion of the costs of implementation is \$53,000 for form revisions.

CHAIR CANNIZZARO:

Does the estimate include costs for the mockup you have provided?

MS. ALBERTSON:

Yes. Funding is in the proposed budget for the DMV.

CHAIR CANNIZZARO:

Law provides that the DMV shares information with the SOS and county clerks. Initiative Petition 1 does not alter the current information-sharing process. Is that correct?

MS. ALBERTSON:

That is correct. We would not be required to gather and transmit additional information. The only change would be in the forms.

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SENATOR GANSERT:

You discussed a conflict between the opt-out box and the NVRA. Can you clarify?

MS. ALBERTSON:

The proposed change is found in the voter registration or address change section of the driver's license or identification card form. The section provides two options. First, the customer is directed to page 3 of the application to register to vote. Second, the customer can check a box and opt out of registering to vote. The second option is a provision of I.P. 1. That is where the conflict lies.

SENATOR GANSERT:

The forms consist of two applications, one for a driver's license or identification card and one to register to vote. Are customers required to sign twice?

MS. ALBERTSON:

Yes. Two signatures are required if customers elect to register to vote. A potential conflict arises when customers choose to opt out but complete and sign the voter registration application. The DMV is required under the NVRA to submit the voter registration application to the SOS or county clerks. Under I.P. 1, the DMV is required to reject the application.

SENATOR GANSERT:

Is a completed voter registration form required under I.P. 1?

MS. ALBERTSON:

Yes. Information is transmitted from the voter registration form. We need to capture information such as party affiliation and signature for verification on Election Day. This is required by statute.

CHAIR CANNIZZARO:

Please provide more information regarding possible conflicts between the NVRA and I.P. 1.

MR. POWERS:

Some background on federal law will be helpful. There are three types of preemption under federal law. First, in expressed preemption, Congress includes a statutory statement of clear preemption of a certain element of state law. The

NVRA does not expressly preempt an opt-out model as outlined in I.P. 1. There is no expressed preemption.

The second category is field preemption, where Congress through pervasive comprehensive regulation preempts the entire field and prohibits states from enacting laws in that field. Clearly, the NVRA is not an act of field preemption. The goal was the opposite. It is a shared approach between federal and state governments.

Last is conflict preemption. Conflict preemption occurs when a person cannot comply with federal and state law at the same time. However, when determining conflict preemption, some basic rules of construction are applied. First, there is a presumption against preemption. Second, if there is preemption, it should be narrowly construed to preempt as little of the State law as possible. Even if there is some tension between the NVRA and I.P. 1, federal law would not preempt all of I.P. 1. Only the implementation of I.P. 1, in specific circumstances, might be preempted.

State agencies, state courts and administrative officials are required to comply with the Supremacy Clause of the United States Constitution that provides for federal preeminence over state laws. In administering both the NVRA and I.P. 1, the DMV in those situations where there is a conflict would be required to follow the federal law. This would occur only in narrow situations where there is conflict. For example, if a customer checks a box opting out of registering to vote and then completes and signs the voter registration form, under federal law the DMV would be required to forward the form to the SOS or county clerk.

As an administrative precaution, the DMV could ensure at the application phase of the process that customers are aware of potential conflicts. The customer should be aware that if he or she completes and signs the voter registration form, that information will be forwarded to election officials. Conflict preemption can be mitigated by the DMV. At no point would federal law preempt all aspects of I.P. 1.

Initiative Petition 1 cannot register a person to vote. It provides for transmitting voter information to a county clerk. The county clerk completes the process by confirming the information on the application and verifying the person is qualified to vote. Under all circumstances, voters must sign a document to be registered to vote.

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CHAIR CANNIZZARO:

Does the explanation clarify some of your concerns?

Ms. ALBERTSON:

Yes. This would be a staff training issue. Once customers have completed forms, the forms cannot be revised.

CHAIR CANNIZZARO:

Does I.P. 1 restrict voter registration to U.S. citizens?

Ms. ALBERTSON:

The DMV does not collect citizenship information for driver's license or identification card applications. The citizenship information is found on the voter registration application. The customer is required to attest to the fact that he or she is a U.S. citizen and over the age of 18. County clerks and registrars are tasked with verifying citizenship.

SENATOR SETTELMAYER:

Our system is well-designed. If the DMV is aware that an applicant holds a green card and is eligible to apply for a driver's license but completes a voter registration application, do you take any action?

Ms. ALBERTSON:

When applicants for a driver's license or identification card present foreign documents, the DMV cannot prevent the completion of a voter registration application. We do have a method for recommending that county clerks carefully review particular applications.

We cannot prevent customers from completing voter registration applications, nor can we refuse to accept an application. Ours is a pass-through agency in regard to voter registration applications.

SENATOR GANSERT:

Initiative Petition 1 does not change these requirements. Is that correct?

Ms. ALBERTSON:

Yes, you are correct.



SENATOR GANSERT:

How does the process work with REAL ID?

Ms. ALBERTSON:

REAL ID is an option in Nevada. At some point the Transportation Security Administration will enforce the provisions of the REAL ID law.

JOE GLORIA (Registrar of Voters, Clark County):

Our office has been working with the DMV on the electronic transfer of records. Initiative Petition 1 would not impact the process. We have provided a fiscal note. An increase in voter registration would require funds for additional voter registration cards and sample ballots. We estimate an increase of up to 120,000 voters in Clark County based on transactions at the DMV. In Oregon in 2016, 75 percent of those offered the opportunity to register to vote were already registered. We are expecting an increase of about 25 percent of DMV visitors to register to vote.

CHAIR CANNIZZARO:

Can you address I.P. 1 and third-party registration groups?

MR. GLORIA:

Registering to vote with a trusted government entity gives voters confidence in the process. Third-party registrations would decrease under I.P. 1.

CHAIR CANNIZZARO:

Can you provide more information regarding the fiscal note?

MR. GLORIA:

The opportunity to opt in to the voter registration process will increase the number of voters. Once a voter is registered, the County must send a voter registration card. We are also required to send a sample ballot to active voters. In an even-numbered year, a sample ballot can cost from \$1 to \$1.35 depending on the size of the ballot. Clark County's fiscal note was \$260,000.

CHAIR CANNIZZARO:

Is there potential for cost savings?

MR. GLORIA:

There is potential for cost savings with the electronic entry of these records. A qualified operator can enter 40 to 60 registration forms in an hour. In 2016, we processed over 333,000 registrations. Of those records received electronically, we saved one man-hour for every 40 to 60 registration forms.

CHAIR CANNIZZARO:

Does Oregon have an opt-out system?

MR. GLORIA:

Oregon's system is similar to that proposed in I.P. 1. It is an opt-out system.

WAYNE THORLEY (Deputy Secretary for Elections, Office of the Secretary of State):

The Secretary of State's Office is neutral on I.P. 1. The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) is a federal law passed to provide more opportunities for those serving in the military and those living overseas to participate in the voting process.

The Federal Voting Assistance Program (FVAP) is an agency within the U.S. Department of Defense charged with informing uniformed and overseas voters about their voting rights and helping them navigate voting requirements in all 50 states. Uniformed service members, their families and citizens residing outside the United States who want to vote complete a Federal Post Card Application (FPCA). A policy brief from FVAP regarding automatic voter registration and the potential impact on UOCAVA voters was recently published. One section states:

Many UOCAVA voters, particularly those serving in the military, are highly mobile. They may need to utilize government services in a variety of States as they relocate from duty station to duty station; however, they may wish to retain their home of record as their voting residence address (within their State of legal residence). If this voter is automatically registered in a new State when they utilize a State government service, this could impact their legal residency depending on the law in the State in which they have now been automatically registered in conjunction with the law in their original State of residence. This could also inadvertently put them at odds with the provisions outlined in the

FPCA prescribed oath which states, "I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States, except the jurisdiction cited in this form (FPCA)."

The FVAP is cautioning about a potential negative impact on military and overseas voters who are highly mobile. When members of the military move to a different state and obtain a government document such as a driver's license, they may wish to retain their home state as their state of permanent residence and voting jurisdiction. If they are automatically registered to vote in the new state, they may inadvertently participate in the election in two states.

CHAIR CANNIZZARO:

Is there a mechanism for these individuals to maintain their state of permanent residence?

MR. THORLEY:

The residency laws are complicated and vary by state. In the policy brief, FVAP stresses the importance of actively opting out of the voter registration process when appropriate.

CHAIR CANNIZZARO:

Initiative Petition 1 provides an opt-out option. Is there evidence of problems in states offering an opt-out option?

MR. THORLEY:

I am not aware of specific problems. Automatic voter registration is a new concept. The Federal Voting Assistance Program is just beginning to analyze the potential impact on UOCAVA voters.

When a DMV customer neither checks the opt-out box on the driver's license application nor completes the voter registration form, the result will be increased correspondence costs to county clerks and registrars of voters. Statute requires contact with voters who submit incomplete forms. The DMV, under I.P. 1, is required to forward a blank voter registration form if the customer did not affirmatively choose the opt-out option.

CHAIR CANNIZZARO:

Initiative Petition 1 addresses this issue. The customer would be registered to vote as nonpartisan and be required to complete the voter registration form. Would employee training help alleviate this concern?

MR. THORLEY:

Yes, however, county clerks would still be required to reach out for more information.

Section 7, subsection 4 of I.P. 1 states, "The Secretary of State shall not require a person to provide any documentation in order to apply to register to vote or have his or her voter registration affirmation updated, as applicable ..." Language in section 10, subsection 2, paragraph (c) requires certain types of identification the first time a person votes if he or she registers to vote pursuant to section 4 of this act. The Secretary of State's Office is not clear how to reconcile these sections.

MR. POWERS:

The SOS cannot by regulation require a person to provide any documentation to apply to register to vote. This is not required by section 4 of this bill or by federal law.

Information is required at the DMV in order to process an application for a driver's license or identification card. If the information required by the DMV under section 4 is sufficient for voter registration, voters will not be required to provide additional information at the polls.

MR. THORLEY:

Section 7, subsection 4 also states, "not required by section 4 of this act or federal law, including, without limitation, documentation to prove the person's identity, citizenship or residence." We want to verify there is no conflict with section 10 which seems to contemplate that a person would be providing proof of identity and residence.

MR. POWERS:

The purpose of section 7, subsection 4 is to make clear the SOS cannot require additional information beyond the information required by the DMV by federal law. A person who applies for a driver's license is required to provide information with regard to identity, citizenship and residence.

KATHY LEWIS (Clerk-Treasurer, Douglas County):

Section 16, subsection 9, paragraph (b) requires counties to mail notification to a voter within 5 days. Statute provides for ten days. The reduction in time is a concern. Subsection 9 also requires counties to send voter registration notification cards to the residential address. In Douglas County, 28 percent of voters have a mailing address, but 13 percent of those voters are Lake Tahoe residents and do not have home mail delivery. Their secondary address is a post office box. We can anticipate return of the first notice and will then send a second notice to the post office box. This is expensive and time-consuming. We expect a fiscal impact of approximately \$20,000.

Statute requires mailing of a notification of voter registration but is silent on a required address. When a voter provides a post office box address, we mail the notice directly to that address.

CHAIR CANNIZZARO:

I read this as an attempt to reach voters at every known address to ensure they are notified of changes in voter registration.

Ms. Lewis:

If the language reads "mailing address," we have the best opportunity of reaching voters in a timely, cost-effective manner.

SUE MERRIWETHER (Clerk-Recorder, Carson City):

Initiative Petition 1 will impact Carson City and rural counties by increasing costs for correspondence, postage and printing. Our fiscal note includes costs for staffing.

Last week, our office toured the DMV. I asked staff if they had noticed an increase in voter registration after implementation of the new forms. They have not yet noticed an increase. In terms of expanding voter registration, the Secretary of State and the DMV are moving in the right direction. Their efforts are appreciated.

MIKEY KELLY:

I support I.P. 1 and have submitted my testimony ([Exhibit F](#)).

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MATTHEW DEFALCO:

Members of the military have barriers not faced by most Americans. I support I.P. 1 and have submitted my testimony ([Exhibit G](#)).

ALEX GOFF:

I support I.P. 1. It is a simple update to our voter registration system. I have submitted my testimony ([Exhibit H](#)).

STEVE HORNER:

I have spent my weekends for the past few years sitting at the local library registering people to vote. I support I.P. 1 and have submitted my testimony ([Exhibit I](#)).

RICK CORNSTUBLE:

I am a military veteran and an active volunteer in my community in Las Vegas. I support I.P. 1 and have submitted my testimony ([Exhibit J](#)).

MARY DUNGAN:

I support I.P. 1 and have submitted my testimony ([Exhibit K](#)).

RICK KOSS:

I support I.P. 1 and have submitted my testimony ([Exhibit L](#)).

NANCY SCOTT (League of Women Voters):

We support I.P. 1.

ROBERT CONWAY (Ironworkers, Local 433):

We support I.P. 1.

BONNIE MCDANIEL:

There are flaws in this bill and because it cannot be amended, I oppose I.P. 1. The DMV should not offer a voter registration form to anyone who comes to the office for services. Undocumented individuals are eligible for driver's authorization cards. Green card holders are eligible for driver's licenses and identification cards. Noncitizens may be registering to vote. Until we have voter ID we cannot stop voter fraud.

There is no option for someone already registered who does not want to make changes to opt out of this paperwork. Many of the registration forms in

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circulation have not been updated. State agencies still distribute voter registration forms with Ross Miller as Secretary of State.

As a poll worker, I check signatures for each voter. Many times the signatures do not match. We then must have our team leader approve the signature. They ask the voter to sign a change of signature form without identification or verification.

Section 7, subsection 4, lines 27 and 28 state "citizenship or residence." Residents are not allowed to vote. They cannot register to vote. It cannot be "or." It has to be just "citizens."

JULIE HEREFORD:

I am an immigrant and have taken citizenship tests to obtain my citizenship. I volunteer to register voters. The only information required on the voter's registration form is a social security or driver's license number. Neither number proves a person is a citizen. Not all who obtain a driver's license are citizens. I am concerned that anyone who applies for a driver's license will be registered as a voter.

Immigrants come to the United States to enjoy democracy and to uphold the integrity of the election system.

I urge you to vote against I.P. 1 unless we can guarantee that everyone who registers to vote is a citizen.

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CHAIR CANNIZZARO:

There being no further business before the Committee, we are adjourned at  
5:36 p.m.

RESPECTFULLY SUBMITTED:

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Jan Brase,  
Committee Secretary

APPROVED BY:

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Senator Nicole J. Cannizzaro, Chair

DATE: \_\_\_\_\_



<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	6		Attendance Roster
I.P. 1	C	3	Terri Albertson / Department of Motor Vehicles	Application for Driving Privileges or ID Card
I.P. 1	D	3	Terri Albertson / Department of Motor Vehicles	Financial Impact of the Automatic Voter Registration Initiative
I.P. 1	E	2	Terri Albertson / Department of Motor Vehicles	Mockup Application for Driving Privileges or ID Card
I.P. 1	F	1	Mikey Kelly	Written Testimony
I.P. 1	G	1	Matthew DeFalco	Written Testimony
I.P. 1	H	1	Alex Goff	Written Testimony
I.P. 1	I	1	Steve Horner	Written Testimony
I.P. 1	J	1	Rick Cornstuble	Written Testimony
I.P. 1	K	1	Mary Dungan	Written Testimony
I.P. 1	L	2	Rick Koss	Written Testimony