CARSON CITY NEVADA

Voter Information Guide and Sample Ballot

2020 GENERAL ELECTION
Tuesday, November 3, 2020

Distributed by: Carson City Clerk-Recorder

Aubrey Rowlatt
Carson City Clerk-Recorder

885 E. Musser Street, Suite 1025, Carson City, NV 89701

Dear Carson City Voters,

A.B. 4, 32nd Special Session (Nev. 2020), enacts provisions for conducting elections adversely affected by certain emergencies or disasters. The 2020 General Election has been designated as an "affected" election. Accordingly, this office has been mandated to mail all active registered voters a mail ballot. You may choose to vote your mail ballot or to vote in person using a voting machine.

If you choose to vote your mail ballot, you may return your ballot to our office in one of the following ways:

- U.S. Postal Service (USPS) (**postage is prepaid on the ballot return envelope**);
- Hand-deliver to the Clerk's office **during business hours;**
- Hand-deliver to the Carson City polling location **during polling hours; or**
- Deliver your ballot to a Carson City ballot drop box location **during polling hours** (*see page 5 for drop box locations*).

If you choose to vote in person, please appear at the polling location during Early Voting or Election Day polling hours. You will be required to sign an affirmation surrendering your mail ballot before being issued a new ballot to vote using a voting machine.

Included in this ***Voter Information and Sample Ballot*** is a list of offices, candidates, and ballot questions on the 2020 General Election ballot as well as several ***Frequently Asked Questions***. Please take a moment to review and become familiar with the information.

Thank you for your time and attention. If you have any questions, please do not hesitate to contact this office directly at (775) 887-2087 or by email to elections@carson.org.

Sincerely,

Aubrey Rowlatt

Aubrey Rowlatt
Carson City Clerk-Recorder

FREQUENTLY ASKED QUESTIONS

WHY DID I RECEIVE A MAIL BALLOT?

A.B. 4, 32nd Special Session (Nev. 2020), requires the Clerk's office to mail all active registered voters a mail ballot for the November 3, 2020, General Election.

HOW DO I VOTE IN PERSON?

There will be **ONE** polling location for **in person** voting during Early Voting and on Election Day:

CARSON CITY COMMUNITY CENTER GYMNASIUM
851 E. William Street

THE DESIGNATED POLLING LOCATION ENTRANCE WILL BE AT THE SOUTHEAST DOOR OF THE GYMNASIUM (ACROSS FROM THE POOL).

NOTICE: THE LOCATION OF YOUR POLLING PLACE OR PLACES HAS CHANGED SINCE THE LAST ELECTION. (NRS 293.565)

Saturday	October 17, 2020	10:00 a.m. - 2:00 p.m.
Mon– Fri	October 19 - 23, 2020	8:00 a.m. - 6:00 p.m.
Saturday	October 24, 2020	10:00 a.m. - 2:00 p.m.
Mon - Fri	October 26 - 30, 2020	8:00 a.m. - 6:00 p.m.
Tuesday	**November 3, 2020**	**7:00 a.m. - 7:00 p.m.**

LINES MAY BE LONG DUE TO SOCIAL DISTANCING GUIDELINES
WE APPRECIATE YOUR PATIENCE

*NOTE: THE CARSON CITY COURTHOUSE IS NOT A POLLING LOCATION FOR THIS ELECTION

Jump Around Carson (JAC) will be offering free rides to and from the Community Center polling location during Early Voting and on Election Day.

FREQUENTLY ASKED QUESTIONS

HOW DO I SURRENDER MY MAIL BALLOT IF I CHOOSE TO VOTE IN PERSON?

Appear at the Community Center during polling hours. You will be required to sign an affirmation surrendering your mail ballot. The mail ballot will be rejected and a new ballot will be issued to you to vote in person.

HOW DO I VOTE IN PERSON USING A BALLOT MARKING DEVICE?

1. **INSERT** paper ballot into Expressvote ballot marking device;
2. **MAKE YOUR SELECTIONS** on the Expressvote touchscreen;
3. **VERIFY YOUR SELECTIONS** on the Expressvote touchscreen;
4. **MAKE YOUR CORRECTIONS (if needed)** on the Expressvote touchscreen;
5. **PRINT YOUR SELECTIONS** from the Expressvote ballot marking device;
6. **REVIEW** your printed selections on the paper ballot;
7. **CAST YOUR BALLOT** by placing your printed paper ballot in the polling location tabulator as you exit the polling location.

EXPRESSVOTE BALLOT MARKING DEVICE

POLLING LOCATION TABULATOR

FREQUENTLY ASKED QUESTIONS CONTINUED

HOW DO I VOTE MY MAIL BALLOT?


Mark your ballot (**instructions will be provided with your ballot**);


Sign the return envelope (for verification purposes); and


Return your ballot in the postage-paid envelope by mail or hand-deliver it to one of the ballot drop box locations (*See below for locations*).

Your voted ballot must be <u>postmarked</u> by November 3, 2020, and received by the Clerk's office by 5:00 p.m. on the seventh day after the election.

Any ballots being delivered in person must be <u>received</u> by the Clerk's office, or a designated ballot drop box no later than 7:00 p.m. Tuesday, November 3, 2020.

WILL THERE BE BALLOT DROP BOX LOCATIONS?

Below are the two ballot drop box locations for Carson City voters:

Fuji Park 601 Old Clear Creek Road **See polling location dates and times on page 3.**	**NO VOTING MACHINES AT THIS LOCATION** **BALLOT DROP ONLY**
Community Center 851 E. William Street **See polling location dates and times on page 3.**	**VOTING MACHINES LOCATED AT THIS LOCATION**

The above ballot drop box locations are open <u>ONLY</u> during Early Voting and Election Day polling hours.

The Clerk's office will accept voted mail ballots at the counter during normal business hours.

THE COUNTY CLERK'S OFFICE IS NOT A POLLING LOCATION. NO VOTING MACHINES WILL BE AVAILABLE AT THE COUNTY CLERK'S OFFICE.

FREQUENTLY ASKED QUESTIONS CONTINUED

HOW DO I VOTE IF I AM UNABLE TO SIGN MY MAIL BALLOT DUE TO A LIMITING CONDITION?

The Nevada Secretary of State's office has a web-based solution if you are unable to sign your mail ballot. Please visit NVEASE.gov to find out more. Reasonable accommodations will be made to help any voter requesting assistance at a polling location. (NRS 293.565(8)).

WHAT IF MY MAIL BALLOT ENVELOPE STATES "ID REQUIRED"?

If you registered to vote by mail, or did not provide proof of identity at the time of registering, you may be required to provide proof of identity and residency with your ballot. Please contact the Clerk's office at (775) 887-2087 with any questions.

WHAT IF MY SIGNATURE HAS CHANGED OR DOES NOT MATCH?

If there is a discrepancy with your signature on your mail ballot envelope, the Clerk's office will contact you using the contact information you have provided to our office. The deadline to cure the signature discrepancy is 5:00 p.m., November 12, 2020.

WHAT WILL BE ON MY BALLOT?

This ***Voter Information and Sample Ballot*** lists all offices, candidates, and ballot questions that are on the 2020 General Election ballot.

FREQUENTLY ASKED QUESTIONS CONTINUED

WHAT IMPORTANT DEADLINES ARE APPROACHING?

October 6, 2020

Standard close of registration: all agency, mail, or in person registrations must be postmarked or received by the Clerk's office by this date.

October 7-15, 2020

Online only voter registration and voter registration updates. Mailed or over-the-counter voter registrations are not accepted during this time.

October 16-29, 2020

Anyone registering to vote online or updating their voter registration online during this time MUST appear in person during Early Voting or Election Day and bring a valid Nevada Driver's License or Nevada Identification card and proof of residency in order to vote.

October 27, 2020 (5:00 p.m.)

Requests for replacement mail ballots must be received by this date and time to be processed and mailed. AFTER this date, replacement mail ballots must be picked up in person at the Clerk's office.

WHO DO I CONTACT WITH ANY QUESTIONS?

Carson City Clerk
(775) 887-2087
elections@carson.org

WARNING: "A person who is entitled to vote shall not vote or attempt to vote more than once in the same election. Any person who votes or attempts to vote twice at the same election is guilty of a Category D felony and shall be punished as provided in NRS 193.130." NRS 293.780(1).

2020 GENERAL ELECTION SAMPLE BALLOT

Party Abbreviations

DEM - Democratic Party
IAP- Independent American Party
LPN - Libertarian Party of Nevada
NPP - No Political Party *
NP - Nonpartisan
REP - Republican Party

**NPP (No Political Party) is a candidate not affiliated with a political party running for a partisan office.*

FEDERAL PARTISAN OFFICES	
PRESIDENT and VICE PRESIDENT OF THE UNITED STATES Four (4) Year Term Vote for One (1)	
Biden, Joseph R. Harris, Kamala D.	(DEM) (DEM)
Blankenship, Don Mohr, William	(IAP) (IAP)
Jorgensen, Jo Cohen, Jeremy "Spike"	(LPN) (LPN)
Trump, Donald J. Pence, Michael R.	(REP) (REP)
None of These Candidates	
UNITED STATES REPRESENTATIVE IN CONGRESS DISTRICT 2 Two (2) Year Term Vote for One (1)	
Ackerman, Patricia	(DEM)
Amodei, Mark E.	(REP)
Hansen, Janine	(IAP)

STATE DISTRICT PARTISAN OFFICES	
STATE ASSEMBLY DISTRICT 40 Two (2) Year Term Vote for One (1)	
Loyd, Sena	(DEM)
O'Neill, Philip "PK"	(REP)
STATEWIDE NONPARTISAN OFFICES	
JUSTICE OF THE SUPREME COURT SEAT B Six (6) Year Term Vote for One (1)	
Pickering, Kristina	(NP)
None of These Candidates	
JUSTICE OF THE SUPREME COURT SEAT B Six (6) Year Term Vote for One (1)	
Fumo, Ozzie	(NP)
Herndon, Douglas	(NP)
None of These Candidates	

2020 GENERAL ELECTION SAMPLE BALLOT

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DEM - Democratic Party
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REP - Republican Party

**NPP (No Political Party) is a candidate not affiliated with a political party running for a partisan office.*

STATEWIDE NONPARTISAN OFFICES	
COURT OF APPEALS JUDGE DEPARTMENT 3 Unexpired Two (2) Year Term Vote for One (1)	
Bulla, Bonnie	(NP)
Bush, Susan	(NP)
None of These Candidates	
DISTRICT NONPARTISAN OFFICES	
DISTRICT COURT JUDGE DISTRICT 1, DEPARTMENT 1 Six (6) Year Term Vote for One (1)	
Russell, James Todd	(NP)
DISTRICT COURT JUDGE DISTRICT 1, DEPARTMENT 2 Six (6) Year Term Vote for One (1)	
Wilson, Jim	(NP)

SCHOOL DISTRICT NONPARTISAN OFFICES	
SCHOOL TRUSTEE DISTRICT 7 Four (4) Year Term Vote for One (1)	
Cacioppo, Joe	(NP)
Trushenski, Joy R.	(NP)
CITY NONPARTISAN OFFICES	
BOARD OF SUPERVISORS WARD 2 Four (4) Year Term Vote for One (1)	
White, Maurice “Mo”	(NP)
Wilke-McCulloch, Stacie	(NP)

2020 GENERAL ELECTION SAMPLE BALLOT

STATEWIDE BALLOT QUESTIONS

QUESTION NO. 1

Amendment to the *Nevada Constitution*
Assembly Joint Resolution No. 5 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to: (1) remove provisions governing the election and duties of the Board of Regents and its control and management of the State University and require the Legislature to provide by law for the State University's governance, control, and management and the reasonable protection of individual academic freedom at Nevada's public higher education institutions; and (2) revise the administration of certain federal land grant proceeds dedicated for the benefit of certain departments of the State University?

Yes
No

QUESTION NO. 2

Amendment to the *Nevada Constitution*
Assembly Joint Resolution No. 2 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to: (1) remove an existing provision recognizing marriage as only between a male person and a female person and require the State of Nevada and its political subdivisions to recognize marriages of and issue marriage licenses to couples, regardless of gender; (2) require all legally valid marriages to be treated equally under the law; and (3) establish a right for religious organizations and clergy members to refuse to perform a marriage and provide that no person is entitled to make any claim against them for exercising that right?

Yes
No

2020 GENERAL ELECTION SAMPLE BALLOT

STATEWIDE BALLOT QUESTIONS

QUESTION NO. 3

Amendment to the *Nevada Constitution*

Senate Joint Resolution No. 1 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to: (1) require the State Board of Pardons Commissioners—whose members are the Governor, the justices of the Nevada Supreme Court, and the Nevada Attorney General—to meet at least quarterly; (2) authorize each member of the Board to submit matters for consideration by the Board; and (3) authorize the Board to grant pardons and make other clemency decisions by a majority vote of its members without requiring the Governor to be part of the majority of the Board that votes in favor of such decisions?

Yes
No

QUESTION NO. 4

Amendment to the *Nevada Constitution*

Senate Joint Resolution No. 3 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended by adding a new section guaranteeing specific voting rights to all qualified and registered voters in the State?

Yes
No

2020 GENERAL ELECTION SAMPLE BALLOT

STATEWIDE BALLOT QUESTIONS

QUESTION NO. 5

PURSUANT TO NRS 295.035, BALLOT QUESTION NO. 5 DOES NOT EXIST FOR THE 2020 GENERAL ELECTION.

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

QUESTION NO. 1

Amendment to the *Nevada Constitution*

Assembly Joint Resolution No. 5 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to: (1) remove provisions governing the election and duties of the Board of Regents and its control and management of the State University and require the Legislature to provide by law for the State University's governance, control, and management and the reasonable protection of individual academic freedom at Nevada's public higher education institutions; and (2) revise the administration of certain federal land grant proceeds dedicated for the benefit of certain departments of the State University?

Yes o No o

EXPLANATION & DIGEST

EXPLANATION—The *Nevada Constitution* requires the Legislature to provide for the establishment of a State University that is controlled by an elected Board of Regents whose duties are prescribed by law. Additionally, the *Nevada Constitution* provides for the Board of Regents to control and manage the affairs and funds of the State University under regulations established by law. This ballot measure, also known as "The Nevada Higher Education Reform, Accountability and Oversight Amendment," would remove the constitutional provisions governing the election and duties of the Board of Regents and its control and management of the affairs and funds of the State University and would require the Legislature to provide by law for the governance, control, and management of the State University. This ballot measure would not repeal any existing statutory provisions governing the Board of Regents, including those that provide for the election of Board members, but it would make the Board a statutory body whose structure, membership, powers, and duties are governed by those existing statutory provisions, subject to any statutory changes made through the legislative process.

The *Nevada Constitution* directs the Legislature to encourage by all suitable means the promotion of intellectual, literary, scientific, mining, mechanical, agricultural, ethical, and other educational improvements. This ballot measure would require the Legislature to provide by law for the reasonable protection of individual academic freedom for students, employees, and contractors of Nevada's public higher education institutions in order to facilitate the policies of the *Nevada Constitution* to encourage the promotion of such educational improvements.

The *Nevada Constitution* provides that certain funding derived by the State of Nevada under a federal law enacted by Congress in 1862 must be invested in a separate fund and dedicated for the benefit of certain departments of the State University, and that if any amount of the separate fund is lost or misappropriated through neglect or any other reason, the State of Nevada must replace the lost or misappropriated amount so that the principal of the fund remains undiminished. This ballot measure would revise these provisions by: (1) clarifying the legal citations to the federal law, including all amendments by Congress; and (2) specifying that the funding derived under the federal law must be invested by the State of Nevada in the manner required by law.

A "Yes" vote would amend the *Nevada Constitution* by: (1) removing provisions governing the election and duties of the Board of Regents and its control and management of the affairs and funds of the State University and requiring the Legislature to provide by law for the governance, control, and management of the State University; (2) requiring the Legislature to provide by law for the reasonable protection of individual academic freedom at public institutions of higher education in this State; and (3) revising provisions governing the administration of certain funding derived under federal law and dedicated for the benefit of certain departments of the State University.

A "No" vote would retain existing provisions of the *Nevada Constitution* governing the election and duties of the Board of Regents and its control and management of the affairs and funds of the State University, would not require the Legislature to provide by law for the reasonable protection of individual academic freedom at public institutions of higher education in this State, and would not revise existing provisions governing the administration of certain funding derived under federal law and dedicated for the benefit of certain departments of the State University.

DIGEST—The *Nevada Constitution* requires the Legislature to provide for the establishment of a State University that is controlled by a Board of Regents whose duties are prescribed by law. (Nev. Const. Art. 11, § 4) The *Nevada Constitution* also requires the Legislature to provide for the election of members of the Board and provides for the Board to control and manage the affairs and funds of the State University under regulations established by law. (Nev. Const. Art. 11, §§ 7, 8)

As required by these constitutional provisions, the Legislature has enacted laws to establish the State University and to provide for the election of the members of the Board of Regents. (NRS 396.020, 396.040) In addition, the Legislature has enacted laws to: (1) establish the Nevada System of Higher Education (NSHE), which consists of the State University and certain other educational institutions, programs, and operations; and (2) provide for the Board of Regents to administer NSHE and to prescribe rules for its governance and management. (NRS 396.020, 396.110, 396.230, 396.280, 396.300, 396.420, 396.440, 396.550)

This ballot measure would remove the constitutional provisions governing the Board of Regents and would require the Legislature to provide by statute for the governance, control, and management of the State University. This ballot measure would not repeal any existing statutory provisions governing the Board of Regents, including those that provide for the election of Board members. Rather, by removing the constitutional provisions governing the Board of Regents, this ballot measure would make the Board a statutory body whose structure, membership, powers, and duties are governed by those existing statutory provisions, subject to any statutory changes made through the legislative process.

The *Nevada Constitution* directs the Legislature to encourage by all suitable means the promotion of intellectual, literary, scientific, mining, mechanical, agricultural, ethical, and other educational improvements. (Nev. Const. Art. 11, § 1) As a general principle in public institutions of higher education, rules that provide for the reasonable protection of individual academic freedom are intended to encourage the pursuit of knowledge and the search for academic truth and enlightenment. (*Urofsky v. Gilmore*, 216 F.3d 401 (4th Cir. 2000); *Demers v. Austin*, 746 F.3d 402 (9th Cir. 2014))

The United States Supreme Court has suggested—but has not determined—that individual academic freedom "related to academic scholarship or classroom instruction" may be entitled to a heightened level of federal constitutional protection beyond existing free speech protections currently afforded to public employees under the First Amendment to the *United States Constitution*. (*Garcetti v. Ceballos*, 547 U.S. 410, 425 (2006)) However, because the U.S. Supreme Court has not conclusively decided this constitutional issue, neither lower courts nor legal commentators have agreed on the precise level of federal constitutional protection that should be extended to individual academic freedom. (Neal H. Hutchens et al., *Essay: Faculty, the Courts, and the First Amendment*, 120 Penn St. L. Rev. 1027 (2016); Mark Strasser, *Pickering, Garcetti, & Academic Freedom*, 83 Brook. L. Rev. 579 (2018))

This ballot measure would provide for the protection of individual academic freedom under Nevada's state statutes by requiring the Legislature to provide by law for the reasonable protection of individual academic freedom for students, employees, and contractors of Nevada's public higher education institutions in order to facilitate the policies of the *Nevada Constitution* to encourage by all suitable means the promotion of intellectual, literary, scientific, mining, mechanical, agricultural, ethical, and other educational improvements. Under the Supremacy Clause of the *United States Constitution*, federal constitutional law is "the supreme Law of the Land." (U.S. Const. Art. VI, cl. 2) Therefore, to carry out this ballot measure in a manner that is consistent with federal constitutional law, the Legislature would not be authorized to enact state statutes that provide less protection to individual academic freedom than is already afforded by federal constitutional law. However, the Legislature would be authorized to enact state statutes that provide greater protection to individual academic freedom. (*Univ. & Cmty. Coll. Sys. of Nev. v. Nevadans for Sound Gov't*, 120 Nev. 712, 730-31 (2004))

Finally, under a federal law enacted by Congress in 1862, generally known as the federal Morrill Land Grant Act of 1862, each state was provided with certain federal land grants to be sold to support and maintain at least one college in the state that teaches both agriculture and mechanic arts, including military tactics, so long as the state agrees to certain terms and conditions regarding the preservation and use of the proceeds derived from the sale of the federal land grants. (Act of July 2, 1862, ch. 130, §§ 1-8, 12 Stat. 503-05, as amended and codified at 7 U.S.C. §§ 301 et seq.)

To secure the benefits offered by the federal law, the *Nevada Constitution* provides that the funding derived by the State of Nevada under the federal law must be invested in a separate fund and dedicated for the benefit of the appropriate departments of the State University, and that if any amount of the separate fund is lost or misappropriated through neglect or any other reason, the State of Nevada must replace the lost or misappropriated amount so that the principal of the fund remains undiminished. (Nev. Const. Art. 11, § 8) This ballot measure would revise these provisions by: (1) clarifying the legal citations to the federal law, including all amendments by Congress; and (2) specifying that the funding derived under the federal law must be invested by the State of Nevada in the manner required by law. However, because the State of Nevada must administer the funding in the manner required by the federal law, this ballot measure would not change the purpose or use of the funding under the federal law. (*State of Wyoming v. Irvine*, 206 U.S. 278, 282-84 (1907))

ARGUMENTS FOR PASSAGE

Although some other states have elected boards with constitutional status that control and manage particular institutions and programs of public higher education, Nevada is the only state in which a single elected board with constitutional status controls and manages the affairs and funds of the State's entire system of public higher education. In past cases before the Nevada Supreme Court, the Board of Regents has asserted that its "unique constitutional status" gives it "virtual autonomy and thus immunity" from certain laws and policies enacted by the Legislature. (*Board of Regents v. Oakley*, 97 Nev. 605, 607 (1981)) Based on legislative testimony, such assertions have given some people the impression that the Board conducts itself as a fourth branch of government, and that the Board too often invokes its constitutional status as a shield against additional legislative oversight and accountability. For example, in 1999 the Legislature exercised its constitutional powers of investigation and appropriation by passing legislation that created and funded an advisory committee to study the issue of locating a four-year state college in Henderson, Nevada. The Board responded by claiming through its counsel that the legislation was unconstitutional as an "extreme usurpation of the Board's authority" because the advisory committee was "created by and reports to the Legislature and not the Board of Regents." (*Opinion of General Counsel to Board of Regents Regarding Whether Assembly Bill No. 220 Infringes on Constitutional Authority of Board* (Aug. 30, 1999))

Thus, the Board has, at various times, made sweeping arguments regarding its authority and autonomy from additional legislative oversight and accountability. However, the *Nevada Constitution* specifies only the Legislative, Executive, and Judicial branches of state government, and the framers of the *Nevada Constitution* made clear their intent that the Board is not entitled to "absolute control" over the management of the State University. (*Debates & Proceedings of the Nevada State Constitutional Convention of 1864*, at 586 (Andrew J. Marsh off. rep. 1866)) Voting in favor of this ballot question will ensure the Legislature's authority over the Board in all matters relating to the State University by making the Board a statutory body like other executive branch agencies, which will allow for additional legislative oversight and accountability to improve the State's entire system of public higher education.

Further, while the *Nevada Constitution* requires the Legislature to provide financial support for the operation of the State University, it also directs the Board to control and manage the funds of the State University. This divide between the Legislature's constitutional power to fund higher education and the Board's constitutional power to direct how those funds are actually spent gives the Board a virtually unparalleled power within state government to control and manage higher education spending without the same level of legislative oversight typically applied to other executive branch agencies. For years, the Legislature has received complaints about the Board's policies and practices, and the Board has taken actions that some believe have hindered, thwarted, or undermined the Legislature's investigation, review, and scrutiny of the Nevada System of Higher Education (NSHE) controlled by the Board. According to news reports and legislative testimony, NSHE officials were allegedly involved in providing potentially misleading information to a legislative study of higher education funding in 2011–2012. As part of another legislative study of higher education in 2017–2018, testimony indicated NSHE's lack of an overall compensation philosophy contributed to a faculty pay imbalance that will cost approximately $90 million to address initially and will remain as an ongoing annual financial obligation. Without additional legislative oversight of the Board's financial management decisions in a manner that is comparable to other executive branch agencies, there is a greater potential for continued fiscal irresponsibility within NSHE, which ultimately hurts taxpayers and students by driving up the cost of higher education.

The Legislature has also received complaints that the Board has adopted policies and procedures that are not responsive to the higher education needs of the State. Since at least the 1970s, legislators have heard complaints that the Board's policies regarding the transfer of student credits within NSHE's own system have proved problematic because the policies make it difficult for students to move between the system's institutions, resulting in unnecessary procedural barriers to the completion of degrees. Although the Board has claimed for years that it is committed to fixing this recurring issue—and some progress has been made—a recent NSHE audit shows that approximately 1 in 4 students still do not receive full credit and/or lose 3 or more credits under the system's credit transfer process. If the Board's control and management of the State University were subject to the same level of legislative oversight typically applied to other government agencies, the Legislature would have the power to change by law any of the Board's policies and procedures that it determined were not responsive to the higher education needs of the State. With such power, the Legislature could exercise the full extent of its legislative authority to review, reform, and improve the control and management of NSHE.

Passage of this ballot question will require the Legislature to guarantee under state law the reasonable protection of individual academic freedom for students, faculty, and contractors in NSHE. Even though individual academic freedom is currently afforded some protection under federal constitutional law, numerous courts and legal commentators have observed that the true scope of the federal constitutional protection has been unclear since the U.S. Supreme Court's 2006 decision in *Garcetti v. Ceballos*. By requiring the Legislature to enact state statutes that provide for the reasonable protection of individual academic freedom at NSHE, this ballot question will compel the Legislature to specify the scope of that protection under state law and also consider whether to provide greater protection to individual academic freedom than is already afforded by federal constitutional law. Because the protection of individual academic freedom is essential to the pursuit of knowledge and the search for academic truth and enlightenment, this ballot question will ensure that NSHE continues to foster experimentation, invention, and a robust exchange of ideas.

Finally, this ballot question will clarify and modernize existing provisions of the *Nevada Constitution* relating to the administration of the federal land grant proceeds dedicated for the benefit of certain departments of the State University under the federal Morrill Land Grant Act of 1862. However, because the State of Nevada must administer those proceeds in the manner required by the federal law, this ballot question will not change the purpose or use of those proceeds under the federal law.

Improve our public higher education system by allowing for additional legislative oversight and accountability regarding the system, ensuring state-law protection for individual academic freedom at institutions within the system, and clarifying and modernizing existing provisions relating to the administration of the federal land grant proceeds dedicated for the benefit of certain departments of the State University under the 1862 federal law. Vote "yes" on Question 1.

ARGUMENTS AGAINST PASSAGE

In 1864, the framers of the *Nevada Constitution* made a deliberate choice to give constitutional status to the Board of Regents to guarantee that it had independent powers to control and manage the State University without the threat of political interference by the Legislature and Governor. The Board's constitutional status and independent powers are not unique. In at least 21 other states, elected or appointed governing boards have been given constitutional status and independent powers to control and manage state universities and other public institutions of higher education, even if those boards do not oversee the entire state system of higher education to the same extent as Nevada's Board of Regents.

Consistent with the intent of the framers of the *Nevada Constitution*, the Board has not claimed that it is entitled to "absolute control" over the management of the State University, or that it is free from legislative oversight and accountability. (*Debates & Proceedings of the Nevada State Constitutional Convention of 1864*, at 586 (Andrew J. Marsh off. rep. 1866)) The Board recognizes that the *Nevada Constitution* provides it with specific and limited authority over the State University that is independent of the more general control of the

Legislature and Governor because the framers wanted to promote and ensure the academic independence of the State University without making it the political "football of the legislature." (*State ex rel. Mack v. Torreyson*, 21 Nev. 517, 528 (1893) (Bigelow, J., concurring)) When deemed necessary in court cases and legislative inquiries, the Board has legitimately asserted its constitutional status because the Board has a duty to defend the framers' intent to protect the State University from unwarranted intrusions by the political forces of government.

Proponents of this ballot question want voters to believe that the framers got it wrong, and that by removing the Board's specific and limited authority from the *Nevada Constitution*—thereby making the Board a statutory body completely subject to the control of the political machinery of government—the Legislature will somehow improve the transparency, efficiency, and effectiveness of Nevada's higher education system. Unfortunately, passage of Question 1 does not guarantee any of these promised benefits. Question 1 is nothing but the Legislature trying to gain more power and control, and it would only serve to add political pressures to a governance system that is serving this State well.

Under the Board's leadership, the Nevada System of Higher Education (NSHE) has steadily improved higher education outcomes in Nevada. Recently, both the University of Nevada, Reno and the University of Nevada, Las Vegas were recognized as Very High Research Activity (R1) institutions by the prestigious Carnegie Classification of Institutions of Higher Education. For the last ten years in which data is available, while full-time equivalent student enrollment in the system increased by roughly 8 percent, the number of diplomas and certificates awarded increased by more than 40 percent. During this period, the amount of state funding for the system—when calculated in real dollars adjusted for inflation—actually decreased. Yet the Board has, through its financial management decisions, effectively navigated the consequences of a severe economic recession and successfully guided NSHE in its academic mission while also improving operational efficiencies for the benefit of Nevada's taxpayers and adding marketable value for the system's students. Under the existing constitutional structure, anytime the Legislature has concerns about the Board's financial policies and practices, the Legislature already has the power to investigate, review, and scrutinize the Board's financial management decisions, and the Legislature also retains the ultimate power of the purse to determine the amount of state funding that is appropriated for higher education.

Consequently, the Board is already subject to considerable legislative oversight and accountability, and it must explain and justify its financial management decisions to the Legislature in a manner similar to other executive branch agencies.

The Board has governed our higher education system for over 150 years as the system has grown in size, prestige, and complexity. If this question passes, it is uncertain whether the Legislature will retain or reshape the governance of our higher education system. The sole focus of the Board is on higher education policy, and it is best equipped to govern NSHE. It does not make sense to risk losing the Board's independence, institutional knowledge, and expertise with no assurance of what the Legislature may put in its place.

Maintaining the Board's current status in the *Nevada Constitution* ensures that the Board remains elected, responsible to the voters, and responsive to constituents. The Nevada Supreme Court has recognized that the constitutional status of the Board prevents the Legislature from directly interfering with its essential management and control of the State University, and for good reason. Passage of this ballot question would allow the Legislature to change existing higher education policies and procedures and even allow the Legislature to make members of the Board appointed rather than elected. Previous attempts to change higher education governance have failed because Nevadans recognize the importance of keeping the system in the *Nevada Constitution* as originally drafted.

Further, requiring the Legislature to enact state statutes that provide for the reasonable protection of individual academic freedom is unnecessary and will likely cause confusion because federal constitutional law already provides such protection and the Board of Regents has already adopted policies related to individual academic freedom and responsibility at its institutions. Transferring this duty to the Legislature is not only unnecessary but also takes the definition of individual academic freedom out of the hands of academic professionals and places it with an inherently political body whose partisan nature may be hostile to the concept of professors and others speaking openly and freely about political, ideological, or controversial issues. Instead of facilitating and encouraging individual academic freedom, this insertion of partisanship into the realm of scholarship is more likely to stifle the concept of academic freedom than to protect it.

Finally, the framers of the *Nevada Constitution* named the Board as the proper trustee to administer the federal land grant proceeds dedicated for the benefit of certain departments of the State University under the federal Morrill Land Grant Act of 1862. By removing the Board as the constitutionally designated trustee, this ballot question would allow the Legislature to name any other executive branch agencies or officers as a statutory trustee, whether or not they have any experience, knowledge, or understanding of the higher education system or its funding needs. Such a deviation from the intent of the framers could be a recipe for fiscal irresponsibility and mismanagement, which could potentially jeopardize the State's compliance with the federal law.

Reject this uncertain and unnecessary change to the constitutional status of the Board of Regents; do not allow the Legislature to inject politics into the protection of individual academic freedom at institutions within NSHE; and retain the existing constitutional provisions relating to the administration of the federal land grant proceeds dedicated for the benefit of certain departments of the State University under the 1862 federal law. Vote "no" on Question 1.

FISCAL NOTE

Financial Impact—Cannot Be Determined

If approved by the voters, Question 1 removes references to an elected Board of Regents from the *Nevada Constitution* and instead requires the Legislature to provide by law for the governance, control, and management of higher education in this State. This ballot question also requires the Legislature to provide by law for the reasonable protection of individual academic freedom for students, employees, and contractors of Nevada's public higher education institutions.

Future actions, if any, taken by the Legislature regarding the governance, control, and management of higher education cannot be predicted. Additionally, future actions taken by the Legislature to provide for the reasonable protection of individual academic freedom for students, employees, and contractors of Nevada's public higher education institutions cannot be predicted. Thus, the resulting financial impact upon state government, if any, cannot be determined with any reasonable degree of certainty.

Finally, this ballot question clarifies and modernizes existing provisions of the *Nevada Constitution* relating to the administration of the federal land grant proceeds dedicated for the benefit of certain departments of the State University under the federal Morrill Land Grant Act of 1862. However, because the State of Nevada must administer those proceeds in the manner required by the federal law, this ballot question will not change the purpose or use of those proceeds under the federal law. Thus, there is no anticipated financial impact upon state government from these revisions if Question 1 is approved by the voters.

QUESTION NO. 2

Amendment to the *Nevada Constitution*

Assembly Joint Resolution No. 2 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to: (1) remove an existing provision recognizing marriage as only between a male person and a female person and require the State of Nevada and its political subdivisions to recognize marriages of and issue marriage licenses to couples, regardless of gender; (2) require all legally valid marriages to be treated equally under the law; and (3) establish a right for religious organizations and clergy members to refuse to perform a marriage and provide that no person is entitled to make any claim against them for exercising that right?

Yes o No o

EXPLANATION & DIGEST

EXPLANATION—This ballot measure would remove an existing provision in the *Nevada Constitution* which provides that only a marriage between a male person and a female person may be recognized and given effect in Nevada. Based on a 2015 United States Supreme Court decision, this state constitutional provision is currently preempted by federal constitutional law and is therefore unenforceable.

In addition, based on the 2015 U.S. Supreme Court decision, each State must: (1) issue marriage licenses to same-sex couples on the same terms and conditions as opposite-sex couples; and (2) recognize same-sex marriages validly performed in another state. This ballot measure would amend the *Nevada Constitution* to require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law.

Finally, based on a 2018 U.S. Supreme Court decision, a member of the clergy who objects to same-sex marriages on moral and religious grounds cannot be compelled to perform same-sex marriages. This ballot measure would amend the *Nevada Constitution* to provide that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make any claim against a religious organization or member of the clergy for refusing to perform a marriage.

A "Yes" vote would amend the *Nevada Constitution* to: (1) remove the currently preempted and therefore unenforceable provision stating that only a marriage between a male person and a female person may be recognized and given effect in Nevada; (2) require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law; and (3) provide that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

A "No" vote would keep the currently preempted and therefore unenforceable provision in the *Nevada Constitution* stating that only a marriage between a male person and a female person may be recognized and given effect in this State and would not add a provision in the *Nevada Constitution* providing that religious organizations and members of the clergy have the right to refuse to perform a marriage, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

DIGEST—An existing provision in the *Nevada Constitution* provides that only a marriage between a male person and a female person may be recognized and given effect in this State. (Nev. Const. Art. 1, § 21) However, in a 2015 decision, the U.S. Supreme Court held that the right to marry is guaranteed by the Fourteenth Amendment to the *United States Constitution* and that same-sex couples may not be deprived of that right. (*Obergefell v. Hodges*, 135 S. Ct. 2584 (2015))

Under the Supremacy Clause of the *United States Constitution*, federal constitutional law supersedes and preempts conflicting state constitutional law. (U.S. Const. Art. VI, cl. 2) As a result, because the existing provision in the *Nevada Constitution* conflicts with federal constitutional law, it is currently preempted by federal constitutional law and is therefore unenforceable. This ballot measure would remove that unenforceable provision from the *Nevada Constitution*.

In the 2015 decision, the U.S. Supreme Court determined that each State must: (1) issue marriage licenses to same-sex couples on the same terms and conditions as opposite-sex couples; and (2) recognize same-sex marriages validly performed in another state. (*Obergefell v. Hodges*, 135 S. Ct. 2584 (2015)) This ballot measure would amend the *Nevada Constitution* to require that the State of Nevada and its political subdivisions must recognize marriages of and issue marriage licenses to couples regardless of gender, and that all legally valid marriages must be treated equally under the law.

Existing law authorizes licensed, ordained, or appointed ministers and certain other church or religious officials to obtain and renew a certificate of permission to perform marriages. (NRS 122.062 through 122.073) In a 2018 decision, the U.S. Supreme Court stated that it can be assumed that a member of the clergy who objects to same-sex marriages on moral and religious grounds could not be compelled to perform same-sex marriages without denial of the clergy member's right to the free exercise of religion guaranteed by the First Amendment to the *United States Constitution*. (*Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm'n*, 138 S. Ct. 1719 (2018)) This ballot measure would provide that religious organizations and members of the clergy have the right to refuse to perform marriages, and that no person has the right to make a claim against a religious organization or member of the clergy for refusing to perform a marriage.

ARGUMENTS FOR PASSAGE

With the U.S. Supreme Court's decision in *Obergefell v. Hodges*, same-sex marriage has been legal across the country since 2015. Accordingly, the unenforceable provision in the *Nevada Constitution* that recognizes only a marriage between a man and a woman should be removed. Eliminating this discriminatory language and requiring the State of Nevada and its political subdivisions to recognize all legal marriages regardless of gender will ensure marriage equality for all Nevadans.

Question 2 also preserves the constitutional right to religious freedom. Recognizing a same-sex couple's right to marry in the *Nevada Constitution* would ensure every couple the freedom to marry. At the same time, Question 2 also allows religious organizations and clergy members the freedom to choose whether or not to perform a marriage.

Although same-sex couples may enter into domestic partnerships in Nevada, a domestic partnership is not equal to a marriage. Unlike a marriage, a Nevada domestic partnership may or may not be recognized by other states. Moreover, the federal government does not grant domestic partnerships the same rights and benefits as marriage, including family-related Social Security benefits and joint filing of federal income tax returns.

Remove discriminatory and unenforceable language from the *Nevada Constitution* and replace it with provisions guaranteeing equal marriage rights for all Nevadans. Vote "yes" on Question 2.

ARGUMENTS AGAINST PASSAGE

At the general elections in both 2000 and 2002, Nevada voters ratified an amendment to the *Nevada Constitution* by approving an initiative petition—proposed by the people of Nevada—that defines marriage as being only between a man and a woman. This ballot question—proposed by the Legislature—asks voters to change the *Nevada Constitution* based on a 5-4 decision of the U.S. Supreme Court. If the U.S. Supreme Court were to overturn this decision, the definition of marriage currently in the *Nevada Constitution* would again be the controlling law of Nevada. The *Nevada Constitution* should reflect the will of the people of Nevada and not be changed in reaction to a court decision that can be overturned.

Recognizing same-sex marriage in the *Nevada Constitution* raises serious questions about the right to religious freedom guaranteed to every Nevadan. Traditionally, for some religions, marriage has been viewed as an institution typically recognizing only the union between one man and one woman. For some people, this traditional definition of marriage remains a core part of their religious beliefs, and they hold genuine and sincere religious convictions that same-sex marriage is incompatible with and undermines the sanctity of traditional marriage.

There is no need to change the traditional definition of marriage to include same-sex couples. Domestic partnerships are a viable option for same-sex couples in Nevada. These partnerships were enacted under the current constitutional provisions and already afford many of the rights of marriage, including community property, inheritance without a will, and hospital visitation. The State has the ability to expand these rights, and therefore, approval of Question 2 is not necessary.

Uphold the traditional definition of marriage as a union between one man and one woman that currently exists in the *Nevada Constitution*. Vote "no" on Question 2.

FISCAL NOTE

Financial Impact—No

The *Nevada Constitution* provides that only a marriage between a male person and a female person may be recognized and given effect in Nevada. However, based on the United States Supreme Court's ruling in *Obergefell v. Hodges*, marriages are currently recognized by the State and local governments in Nevada regardless of gender, irrespective of the language in the *Nevada Constitution*. Thus, there is no anticipated financial impact upon the State or local governments if Question 2 is approved by the voters.

QUESTION NO. 3

Amendment to the *Nevada Constitution*

Senate Joint Resolution No. 1 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to: (1) require the State Board of Pardons Commissioners—whose members are the Governor, the justices of the Nevada Supreme Court, and the Nevada Attorney General—to meet at least quarterly; (2) authorize each member of the Board to submit matters for consideration by the Board; and (3) authorize the Board to grant pardons and make other clemency decisions by a majority vote of its members without requiring the Governor to be part of the majority of the Board that votes in favor of such decisions?

Yes o No o

EXPLANATION & DIGEST

EXPLANATION—This ballot measure would amend existing provisions of the *Nevada Constitution* that govern the powers and functions of the State Board of Pardons Commissioners whose members are the Governor, the justices of the Nevada Supreme Court, and the Nevada Attorney General. This ballot measure would require the Board to meet at least once each calendar quarter and would allow for each member of the Board to submit matters for the Board's consideration. This ballot measure would also authorize the Board to grant pardons and make other clemency decisions by a majority vote of its members without requiring the Governor to be part of the majority of the Board that votes in favor of such decisions.

A "Yes" vote would require the State Board of Pardons Commissioners to meet at least quarterly, allow any member to submit a matter for the Board's consideration, and authorize the Board to grant pardons and make other clemency decisions by a majority vote of its members without requiring the Governor to be part of the majority of the Board that votes in favor of such decisions.

A "No" vote would keep existing provisions of the *Nevada Constitution,* which do not specify the frequency of meetings of the State Board of Pardons Commissioners and which provide that the Board may grant pardons and make other clemency decisions by a majority vote of its members only if the Governor is part of the majority of the Board that votes in favor of such decisions.

DIGEST—The *United States Constitution* authorizes the President of the United States to grant pardons and reprieves for federal offenses, except in cases of impeachment. (U.S. Const. Art. II, § 2) By contrast, the *Nevada Constitution* authorizes the Governor, the justices of the Nevada Supreme Court, and the Nevada Attorney General, as a body, to remit fines and forfeitures, commute certain punishments, and grant pardons for state offenses, except treason and impeachments, subject to certain procedural regulations provided by law. (Nev. Const. Art. 5, § 14) Existing law immediately restores certain civil rights, such as the right to vote and the right to serve as a juror in a civil action, to a person who has been convicted of certain offenses and who has been discharged from probation or parole or released from prison upon the expiration of his or her sentence. A pardon can immediately restore other civil rights, including the person's right to hold office and the right to serve on a jury in a criminal case. (NRS 176A.850, 213.155, 213.157) Only a full, unconditional pardon can restore the right to bear arms to a person convicted of certain offenses. (NRS 213.090)

The *Nevada Constitution* does not expressly name the State Board of Pardons Commissioners or the frequency with which the Board must meet. Instead, the name of the Board and the requirement to meet at least twice a year are designated by state law. (NRS 213.010) For the Board to grant pardons and make other clemency decisions, the *Nevada Constitution* requires that at least a majority of the Board votes in favor of such decisions and that the Governor be part of that majority. (Nev. Const. Art. 5, § 14) Thus, the Governor can block the granting of a pardon, commuting of a sentence, remitting of a fine or forfeiture, or restoring of a civil right by voting against the action.

This ballot measure would amend the *Nevada Constitution* to: (1) require the State Board of Pardons Commissioners to meet at least once each calendar quarter; (2) authorize each member of the Board to submit matters for consideration by the Board; and (3) authorize the Board to grant pardons and make other clemency decisions by a majority vote of its members without requiring the Governor to be part of the majority of the Board that votes in favor of such decisions.

ARGUMENTS FOR PASSAGE

Requiring the State Board of Pardons Commissioners to meet at least quarterly will allow it to process its workload in a more timely and efficient manner. Currently, the Board is supposed to hold at least two meetings per year to review applications submitted by people petitioning to have a pardon granted, a sentence commuted, a fine or forfeiture remitted, or a civil right restored. However, in six out of the last ten years, the Board has only met once per year, creating a backlog of applications. An applicant who meets the qualifications should be given a chance to have his or her application reviewed by the Board in a timely manner.

Existing law allows the Governor to block the approval of an application by a majority of the Board, even if every other Board member supports its approval. There is no justification for this. The point of vesting clemency power in the Board, as opposed to solely with the Governor as some other states do, is to take advantage of the collective wisdom of the Board. Of the 21 states where this power rests with an executive or administrative board, Nevada is the only state where the Governor has the power to block approval by a majority of the Board.

Finally, the Board is comprised of nine elected officials who are well-qualified to make decisions regarding clemency: the seven justices of the Nevada Supreme Court, the Nevada Attorney General, and the Governor. Allowing each of these members to propose matters for the Board's consideration makes the process more fair and just.

Make the operation of the Board more timely, efficient, and fair. Vote "yes" on Question 3.

ARGUMENTS AGAINST PASSAGE

A person who was convicted of a crime and sentenced under Nevada state law may petition the State Board of Pardons Commissioners to have a pardon granted, a sentence commuted, a fine or forfeiture remitted, or a civil right restored. The Board generally holds hearings twice a year to review these applications. However, a convicted person does not have a right to the review of his or her application. Clemency is a privilege and an honor reserved for those who have demonstrated good behavior following a criminal conviction. In addition, requiring the Board to meet quarterly is inefficient because the Board may have to meet even if there is a lack of qualified applicants.

The *Nevada Constitution* requires that the Governor must be in favor of the clemency decisions made by a majority of the Board. As the Chief Executive and the leader of our State, the Governor rightly has the power to block the Board's decisions to grant clemency. Granting the Governor final authority over clemency decisions is not uncommon. In fact, there are 29 states without similar pardons boards, and the governors in those states have the sole power to grant clemency.

Lastly, changing the *Nevada Constitution* to allow each Board member to propose matters for the Board's consideration diminishes the Governor's constitutional power and ability to act in the best interest of justice and fairness.

Nevada voters should keep the current operations of the Board. Vote "no" on Question 3.

FISCAL NOTE

Financial Impact—Yes

Under current law, the State Board of Pardons Commissioners, consisting of the Governor, the justices of the Nevada Supreme Court, and the Nevada Attorney General, is required to meet at least semiannually to consider requests to have a fine or forfeiture remitted, a punishment commuted, a pardon granted, or a civil right restored. Since 2001, the Board has met at least once per calendar year, with two meetings held per year in calendar years 2002, 2005, 2006, 2011, 2017, 2018, and 2019, and three meetings held per year in calendar years 2001, 2004, and 2007. The Board is scheduled to hold three meetings during calendar year 2020.

The provisions of Question 3 require the Board to meet at least quarterly, which would increase the number of meetings that are held in any given calendar year from the historical pattern. The Board has indicated that, based on historical expenses, its average meeting costs the State approximately $4,250. Thus, to the extent that the Board would be required to meet more frequently if Question 3 is approved, the Board would incur additional expenses of approximately $4,250 for each additional meeting held. However, since it cannot be predicted how many additional meetings the Board may hold if Question 3 were to be approved, the resulting financial impact upon State government from those additional meetings cannot be determined with any reasonable degree of certainty.

The provisions of Question 3 also allow any member of the Board, rather than just the Governor, to submit matters for consideration by the Board. The Division of Parole and Probation of the Department of Public Safety, which provides staff support to the Board, has indicated that allowing any member of the Board to submit matters for consideration, in conjunction with the increase in the number of meetings that must be held each year, will increase the workload of the Division. The Division estimates that it will require two additional staff members to provide support to the Board with managing its caseload, resulting in an approximate increase in expenditures by the State of $175,000 per fiscal year.

The Department has also indicated that, based on the anticipated increase in workload resulting from the provisions of Question 3, the State Board of Parole Commissioners will require one additional administrative position, which would result in an increase of expenditures by the State of approximately $65,000 per fiscal year.

QUESTION NO. 4

Amendment to the *Nevada Constitution*

Senate Joint Resolution No. 3 of the 79th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended by adding a new section guaranteeing specific voting rights to all qualified and registered voters in the State?

Yes o No o

EXPLANATION & DIGEST

EXPLANATION—This ballot measure would amend the *Nevada Constitution* by providing an enumerated list of voting rights guaranteed to all qualified and registered voters in the State similar to the enumerated list of voting rights currently protected by existing statutes. Specifically, each voter would be guaranteed the constitutional right to:

- Receive and cast a ballot that is written in a format which allows the clear identification of candidates and accurately records the voter's selection of candidates;

- Have questions concerning voting procedures answered and have an explanation of the procedures for voting posted conspicuously at the polling place;

- Vote without being intimidated, threatened, or coerced;

- Vote during any period of early voting or on Election Day if the voter has not yet voted and, at the time that the polls close, the voter is waiting in line to vote at a polling place at which, by law, the voter is entitled to vote;

- Return a spoiled ballot and receive a replacement ballot;

- Request assistance in voting, if needed;

- Receive a sample ballot that is accurate, informative, and delivered in a timely manner as provided by law;

- Receive instruction on the use of voting equipment during any period of early voting or on Election Day;

- Have equal access to the elections system without discrimination;

- Have a uniform, statewide standard for counting and recounting all votes accurately as provided by law; and

- Have complaints about elections and election contests resolved fairly, accurately, and efficiently as provided by law.

A "Yes" vote would add a new section to the *Nevada Constitution* guaranteeing specific voting rights to all qualified and registered voters in the State.

A "No" vote would keep existing provisions of the *Nevada Constitution* and would not add a constitutional guarantee of specific voting rights to all qualified and registered voters in the State, but such voting rights would be protected by existing statutes.

DIGEST—Under existing provisions of the *Nevada Constitution*, voters must meet certain qualifications to be qualified electors to vote in elections, including qualifications regarding citizenship, age, and residency. (Nev. Const. Art. 2, § 1) Existing provisions of the *Nevada Constitution* also require the Legislature to enact laws providing for the registration of voters who are qualified electors and the regulation of elections to ensure their integrity and prohibit improper practices. (Nev. Const. Art. 2, § 6, Art. 4, § 27)

As part of its constitutional duties regarding voters and elections, the Legislature has enacted a "Voters' Bill of Rights," which provides all qualified and registered voters with an enumerated list of voting rights that are protected by existing statutes. (NRS 293.2543 through 293.2549) This ballot measure would amend the *Nevada Constitution* by adding a new section to provide all qualified and registered voters with a similar enumerated list of voting rights that would be protected by the *Nevada Constitution*.

ARGUMENTS FOR PASSAGE

The right to vote in free and fair elections, knowing that each vote counts, is one of the most important guarantees in protecting our democracy. Our election system faces many potential challenges, such as unforeseen technological glitches and the threat of bad actors attempting to alter election outcomes. This ballot measure would provide several simple, yet crucial, constitutional guarantees to protect both voters and the integrity of our elections.

It is also important to note that, because these constitutional guarantees are similar to voting rights that already exist in statute, there should be little or no cost associated with implementing them. More importantly, voters will be assured that no matter how the political winds may blow, any attempts to diminish or otherwise interfere with voting rights or with election outcomes in Nevada will be much more difficult to accomplish with these constitutional protections in place.

Protect voters' rights. Protect free, fair, and verifiable elections. Vote "yes" on Question 4.

ARGUMENTS AGAINST PASSAGE

Nevada's voting system functions exceptionally well as is, and basic voting rights are already enshrined in both the *United States Constitution* and the *Nevada Constitution*. There is a reason that the voting rights listed in Question 4 exist in statute and have not been added to the *Nevada Constitution*: these voting rights, while vitally important, are not timeless in their structure or application, and the forms they take may change substantially as the ways in which we vote and conduct elections evolve. Future advances in technology will likely make several of the voting matters addressed by Question 4—such as written ballots, polling places, and even in-person voting—obsolete.

Certainly, every voter should feel secure in his or her ability to understand and identify issues and candidates clearly, to vote accordingly, and to have his or her vote counted. Because these voting rights are already guaranteed elsewhere, there is no need to burden the *Nevada Constitution* with references to specific practices and systems that will surely change over time, forcing us yet again to amend the *Nevada Constitution* to remove outdated provisions.

Question 4 is a solution in search of a problem. Vote "no" on Question 4.

FISCAL NOTE

Financial Impact—No

Based on information received from the Office of the Secretary of State and from local governments, the provisions in Question 4 are similar to existing statutory provisions giving certain rights to voters. Because these existing statutory provisions are already enforced at the state and local level in Nevada, it is anticipated that the enactment of Question 4 would have no financial effect upon the State or local governments.

NOTICE TO VOTERS:

BALLOT QUESTION NO. 5

Pursuant to NRS 295.035:

If the initiative petition proposes an amendment to the Constitution, in resubmitting the initiative to the voters, the Secretary of State shall use the same identifying number or other identification used for the first submission.

Ballot Question No. 6 appeared on the 2018 General Election ballot and is being resubmitted to the voters on the 2020 General Election ballot.

Ballot Question No. 5 does not exist for the 2020 General Election.

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 o No o

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 states[1], yet we get only 20 percent[2] 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 illnesses[4], 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 fast[9], 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.

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[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 citation[1] 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 dollars[7] into a PAC he personally started[8] to rewrite[9] our State Constitution.

Nevada's at the forefront of providing renewable energy[10] 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.

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[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 governor[2] 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.

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[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 energy[1] — 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 2009[3], 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 fuels[5] — 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.

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[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

NOTES

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