



U.S. Election Assistance Commission  
633 3rd Street NW, Suite 200  
Washington, DC 20001

VIA EMAIL

July 18, 2022

Mr. Austin Evers  
American Oversight  
1030 15<sup>th</sup> Street NW, Suite B255  
Washington, DC 20005  
[foia@americanoversight.org](mailto:foia@americanoversight.org)

Greetings:

This acknowledges the U.S. Election Assistance Commission's receipt of your Freedom of Information Act request (No. 20-00007):

"Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of the Election Assistance Commission (EAC), 11 C.F.R. Part 9405, American Oversight makes the following request for records.

In August 2019, EAC Commissioner Christy McCormick gave a presentation regarding automatic voter registration at the National Conference of State Legislatures. American Oversight seeks records to shed light on the presentation.

American Oversight requests that the EAC produce the following records within twenty business days:

All email communications (including complete email chains, email attachments, calendar invitations, and attachments thereto) sent to or received by any of the EAC officials or employees listed below regarding the presentation given by Commissioner McCormick at the August 2019 National Conference of State Legislatures, including, but not limited to, communications referring to the creation of or response to the presentation.

- a. Commissioner Christy McCormick, as well as anyone communicating on her behalf (including communications concerning official government business sent from any personal account, including but not limited to the email address [cacm@aol.com](mailto:cacm@aol.com))
- b. Commissioner Benjamin W. Hovland, as well as anyone communicating on his behalf, such as a Chief of Staff, scheduler, or assistant
- c. Commissioner Donald L. Palmer, as well as anyone communicating on his behalf, such as a Chief of Staff, scheduler, or assistant
- d. Commissioner Thomas Hicks, as well as anyone communicating on his behalf



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- e. Former Executive Director Brian Newby, as well as anyone communicating on his behalf, such as a Chief of Staff, scheduler, or assistant
- f. Former General Counsel Cliff Tatum, as well as anyone communicating on his behalf, such as a Chief of Staff, scheduler, or assistant”

Records responsive to your request are attached. Records have been redacted pursuant to 5 U.S.C. 552(b)(5) & (b)(6).

This letter completes the response to your request. If you interpret any portion of this response as an adverse action, you may appeal this action to the Election Assistance Commission. Your appeal must be in writing and sent to the address set forth below. Your appeal must be postmarked or electronically transmitted within 90 days from the date of the acknowledgment to your request. Please include your reasons for reconsideration and attach a copy of this and subsequent EAC responses.

U.S. Election Assistance Commission  
FOIA Appeals  
633 3rd Street NW, Suite 200  
Washington, DC 20001

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you have any questions please contact my office at your convenience.

Sincerely,

*Camden Kelliher*

Camden Kelliher, Associate Counsel  
U.S. Election Assistance Commission  
[ckelliher@eac.gov](mailto:ckelliher@eac.gov)

## Bill Theobald

email: "bsoder@eac.gov Brenda Soder"

Wednesday, August 14, 2019 at 3:46:04 PM Eastern Daylight Time

To: email: "cmccormick@eac.gov Christy McCormick" , email: "BNewby@eac.gov Brian Newby"

Christy,

(b) (5)



Brenda

# Top U.S. election official opposes automatic voter registration

Bill Theobald Aug 14

The chairwoman of the Election Assistance Commission told the nation's state legislators last week that she's opposed to automatic voter registration.

Adding qualified citizens to the rolls whenever they do business with a state agency, unless they choose to opt out, has quickly become a widely accepted component of most democracy reform agendas. Eighteen states will have so-called AVR in place in time for the 2020 election after a surge of acceptance in state legislatures this decade. And the practice would be nationally mandated under HR 1, the comprehensive campaign finance, election and ethics legislation the House passed in March.

But Christy McCormick argues that registering to vote is a form of speech protected by the First Amendment and that "not registering to vote is a choice – we should respect our citizens' choices."

Rick Hasen, a law professor at the University of California Irvine, published an item about the presentation on his election law blog, saying that the presentation "raised some eyebrows" at the gathering in Nashville of the National Conference of State Legislatures.

The EAC is an advisory commission, created after the disputed 2000 election to help states improve their elections – most recently by distributing money approved by Congress for buying new voting equipment and otherwise enhancing election security.

So McCormack, a Republican who has been chairwoman for four years and was previously a top trial attorney in the voting section of the Justice Department's civil rights division, has no power to shape voter registration policy. Nonetheless, opposition to AVR from one of the top election policy officials in the federal government is notable.

In her presentation to the legislators, McCormack cited a Supreme Court case decided last year, involving a public sector employee who did not join the union because he disagreed with its political positions but was still required to pay dues. The court ruled against the union, saying requiring non-members to pay was forced speech and therefore a violation of the First Amendment.

McCormick also said that automatic voter registration does not necessarily increase turnout and that it would expose more people's voter information to be hacked. "A voter's information belongs to the voter and only to the voter, and he or she — we — should decide how we want our private information to be shared," slides for her presentation said.

In January 2017, McCormick said she did not believe claims of Russian meddling in the 2016 campaign, calling it "deceptive propaganda perpetrated on the American public."

Earlier this year, however, she and other commissioners [pleaded for more money](#) from Congress to help improve security for upcoming elections because of concerns over hacking.

In a statement Wednesday, McCormick said she favors so-called automated registration, which often occurs at motor vehicle bureaus, in which people renewing drivers' licenses are invited to register.

"Voters should give prior consent to registering to vote for a variety of reasons, including, but not limited to, indicating political affiliation, choosing to register in a different state, or declining to register based on religious objection," she said.

--

**BRENDA BOWSER SODER**

Director, Communications & Public Affairs

U.S. Election Assistance Commission

(202)897-9285 / [www.eac.gov](http://www.eac.gov)

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---

email: "bsoder@eac.gov Brenda Soder"

Wednesday, August 14, 2019 at 4:05:14 PM Eastern Daylight Time

To: email: "cmccormick@eac.gov Christy McCormick", email: "BNewby@eac.gov Brian Newby"

I wrote him an email and Bill is talking to his editor. I'll keep you posted.

On Wed, Aug 14, 2019 at 3:46 PM Brenda Soder <[bsoder@eac.gov](mailto:bsoder@eac.gov)> wrote:

Christy,

EAC-20-0218-A-000002

(b) (5)

Brenda

# Top U.S. election official opposes automatic voter registration

Bill Theobald Aug 14

The chairwoman of the Election Assistance Commission told the nation's state legislators last week that she's opposed to automatic voter registration.

Adding qualified citizens to the rolls whenever they do business with a state agency, unless they choose to opt out, has quickly become a widely accepted component of most democracy reform agendas. Eighteen states will have so-called AVR in place in time for the 2020 election after a surge of acceptance in state legislatures this decade. And the practice would be nationally mandated under HR 1, the comprehensive campaign finance, election and ethics legislation the House passed in March.

But Christy McCormick argues that registering to vote is a form of speech protected by the First Amendment and that "not registering to vote is a choice – we should respect our citizens' choices."

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The EAC is an advisory commission, created after the disputed 2000 election to help states improve their elections – most recently by distributing money approved by Congress for buying new voting equipment and otherwise enhancing election security.

So McCormack, a Republican who has been chairwoman for four years and was previously a top trial attorney in the voting section of the Justice Department's civil rights division, has no power to shape voter registration policy. Nonetheless, opposition to AVR from one of the top election policy officials in the federal government is notable.

In her presentation to the legislators, McCormack cited a Supreme Court case decided last year, involving a public sector employee who did not join the union because he disagreed with its political positions but was still required to pay dues. The court ruled against the union, saying requiring non-members to pay was forced speech and therefore a violation of the First Amendment.

McCormick also said that automatic voter registration does not necessarily increase turnout and that it would expose more people's voter information to be hacked. "A voter's information belongs to the voter and only to the voter, and he or she — we — should decide how we want our private information to be shared," slides for her presentation said.

In January 2017, McCormick said she did not believe claims of Russian meddling in the 2016 campaign, calling it "deceptive propaganda perpetrated on the American public."

Earlier this year, however, she and other commissioners [pleaded for more money](#) from Congress to help improve security for upcoming elections because of concerns over hacking.

In a statement Wednesday, McCormick said she favors so-called automated registration, which often occurs at motor vehicle bureaus, in which people renewing drivers' licenses are invited to register.

"Voters should give prior consent to registering to vote for a variety of reasons, including, but not limited to, indicating political affiliation, choosing to register in a different state, or declining to register based on religious objection," she said.

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**email: "cmccormick@eac.gov Christy McCormick" Wednesday, August 14, 2019 at 4:07:27 PM Eastern Daylight Time**

To: email: "bsoder@eac.gov Brenda Soder"

Cc: email: "BNewby@eac.gov Brian Newby"

Thanks.

On Wed, Aug 14, 2019 at 4:05 PM Brenda Soder <[bsoder@eac.gov](mailto:bsoder@eac.gov)> wrote:

EAC-20-0218-A-000004

I wrote him an email and Bill is talking to his editor. I'll keep you posted.

On Wed, Aug 14, 2019 at 3:46 PM Brenda Soder <[bsoder@eac.gov](mailto:bsoder@eac.gov)> wrote:  
Christy,

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U.S. Election Assistance Commission  
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--

Christy A. McCormick | Chairwoman  
U.S. Election Assistance Commission  
[1335 East West Highway](#) | [Suite 4300](#)  
[Silver Spring](#) | [Maryland](#) | [20910](#)

AMERICAN  
OVERSIGHT

EAC-20-0218-A-000006

(301) 563-3965 office | (202) 243-9476 cell  
[cmccormick@eac.gov](mailto:cmccormick@eac.gov) | [www.eac.gov](http://www.eac.gov)

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## Changes to article

email: "bsoder@eac.gov Brenda Soder"

Wednesday, August 14, 2019 at 4:27:27 PM Eastern Daylight Time

To: email: "cmccormick@eac.gov Christy McCormick" , email: "BNewby@eac.gov Brian Newby"

He made two changes to the piece that I've bolded below.

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Bill Theobald Aug 14

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In January 2017, McCormick said she did not believe claims of Russian meddling in the 2016 campaign, calling it "deceptive propaganda perpetrated on the American public."

**But in an [op-ed column](#) in March, McCormick acknowledged that "in the wake of the 2016 presidential election, intelligence officials began to piece together evidence of Russian election interference."**

Earlier this year, she and other commissioners [pleaded for more money](#) from Congress to help improve security for upcoming elections because of concerns over hacking.

**In a statement Wednesday, McCormick said she was "specifically asked by NCSL to provide a counterpoint and share some of the challenges to implementing automatic voter registration."** McCormick said she favors so-called automated registration, which often occurs at motor vehicle bureaus, in which people renewing drivers' licenses are invited to register.

"Voters should give prior consent to registering to vote for a variety of reasons, including, but not limited to, indicating political affiliation, choosing to register in a different state, or declining to register based on religious objection," she said.

--

**BRENDA BOWSER SODER**

Director, Communications & Public Affairs

U.S. Election Assistance Commission

(202)897-9285 / [www.eac.gov](http://www.eac.gov)

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# Fwd: Commission McCormick presentation on automatic voter registration

email: "bsoder@eac.gov Brenda Soder"

Wednesday, August 14, 2019 at 1:06:50 PM Eastern Daylight Time

To: email: "BNewby@eac.gov Brian Newby" , email: "cmccormick@eac.gov Christy McCormick"

Please see below.

----- Forwarded message -----

From: William Theobald (b) (6)

Date: Wed, Aug 14, 2019 at 12:53 PM

Subject: Commission McCormick presentation on automatic voter registration

To: <[bsoder@eac.gov](mailto:bsoder@eac.gov)>

Brenda:

I am checking to see if Commissioner McCormick has any comment for a story that I am writing about her presentation last week at the National Conference of State Legislatures in which she questioned the legality and advisability of automatic voter registration. Thanks. Apparently, the presentation raised some concerns among those who heard it.

Bill

--

Bill Theobald  
Senior Writer  
The Fulcrum

(b) (6)

[thefulcrum.us](http://thefulcrum.us)

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**BRENDA BOWSER SODER**

Director, Communications & Public Affairs

U.S. Election Assistance Commission

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email: "cmccormick@eac.gov Christy McCormick" Wednesday, August 14, 2019 at 1:12:05 PM Eastern Daylight Time  
To: email: "bsoder@eac.gov Brenda Soder"  
Cc: email: "BNewby@eac.gov Brian Newby"

I can't do it now, but I'd be happy to give him a statement. Should have some time to put one together later today or this evening.

On Wed, Aug 14, 2019 at 1:07 PM Brenda Soder <[bsoder@eac.gov](mailto:bsoder@eac.gov)> wrote:  
Please see below.

----- Forwarded message -----

From: William Theobald (b) (6)  
Date: Wed, Aug 14, 2019 at 12:53 PM  
Subject: Commission McCormick presentation on automatic voter registration  
To: <[bsoder@eac.gov](mailto:bsoder@eac.gov)>

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Bill Theobald  
Senior Writer  
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(b) (6)

[thefulcrum.us](http://thefulcrum.us)

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Christy A. McCormick | Chairwoman  
U.S. Election Assistance Commission  
[1335 East West Highway | Suite 4300](#)  
[Silver Spring | Maryland | 20910](#)  
(301) 563-3965 office | (202) 243-9476 cell  
[cmccormick@eac.gov](mailto:cmccormick@eac.gov) | [www.eac.gov](http://www.eac.gov)

email: "bsoder@eac.gov Brenda Soder"  
To: email: "cmccormick@eac.gov Christy McCormick"

Wednesday, August 14, 2019 at 1:15:42 PM Eastern Daylight Time

I'll let him know and am happy to coordinate. I'll also get a better sense of his deadline. Thanks!

Brenda

On Wed, Aug 14, 2019 at 1:12 PM Christy McCormick <[cmccormick@eac.gov](mailto:cmccormick@eac.gov)> wrote:

I can't do it now, but I'd be happy to give him a statement. Should have some time to put one together later today or this evening.

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(b) (6)

[thefulcrum.us](http://thefulcrum.us)

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**BRENDA BOWSER SODER**  
Director, Communications & Public Affairs  
U.S. Election Assistance Commission

EAC-20-0218-A-000012

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U.S. Election Assistance Commission  
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[Silver Spring | Maryland | 20910](#)  
(301) 563-3965 office | (202) 243-9476 cell  
[cmccormick@eac.gov](mailto:cmccormick@eac.gov) | [www.eac.gov](http://www.eac.gov)

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email: "[bsoder@eac.gov](mailto:bsoder@eac.gov) Brenda Soder"

Wednesday, August 14, 2019 at 1:29:23 PM Eastern Daylight Time

To: email: "[cmccormick@eac.gov](mailto:cmccormick@eac.gov) Christy McCormick", email: "[BNewby@eac.gov](mailto:BNewby@eac.gov) Brian Newby"

See below.

----- Forwarded message -----

From: William Theobald (b) (6)

EAC-20-0218-A-000013

Date: Wed, Aug 14, 2019 at 1:28 PM

Subject: Re: Commission McCormick presentation on automatic voter registration

To: Brenda Soder <[bsoder@eac.gov](mailto:bsoder@eac.gov)>

Well, we are planning to publish our story on our website this afternoon but we would be glad to add her comment to the story if she provides one.

Bill

On Wed, Aug 14, 2019 at 1:18 PM Brenda Soder <[bsoder@eac.gov](mailto:bsoder@eac.gov)> wrote:

Thank you for your inquiry. What is your deadline? I believe I may be able to get a statement from her later today or tomorrow, but she is fairly booked up, so it would be good to have a sense of your timing.

Thanks-  
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Bill

--

Bill Theobald  
Senior Writer

(b) (6)

[thefulcrum.us](http://thefulcrum.us)

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**BRENDA BOWSER SODER**

Director, Communications & Public Affairs

U.S. Election Assistance Commission

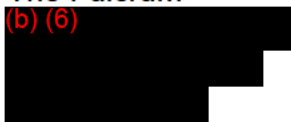
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email: "cmccormick@eac.gov Christy McCormick" Wedne day, Augu t 14, 2019 at 1 54 13 PM Ea tern Daylight Time  
To: email: "bsoder@eac.gov Brenda Soder"  
Cc: email: "BNewby@eac.gov Brian Newby"

Writing this on my phone as I sit in a meeting, so I would appreciate if you would review/proofread.

(b) (5)



On Wed, Aug 14, 2019 at 1:29 PM Brenda Soder <[bsoder@eac.gov](mailto:bsoder@eac.gov)> wrote:  
See below.

----- Forwarded message -----

From: William Theobald (b) (6)  
Date: Wed, Aug 14, 2019 at 1:28 PM  
Subject: Re: Commission McCormick presentation on automatic voter registration  
To: Brenda Soder <[bsoder@eac.gov](mailto:bsoder@eac.gov)>

Well, we are planning to publish our story on our website this afternoon but we would be glad to add her comment to the story if she provides one.

Bill

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Bill Theobald  
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office: 202-914-1665  
cell: 703-967-6074  
@BillTheobald  
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--  
Christy A. McCormick | Chairwoman  
U.S. Election Assistance Commission  
[1335 East West Highway | Suite 4300](#)  
[Silver Spring | Maryland | 20910](#)  
(301) 563-3965 office | (202) 243-9476 cell  
[cmccormick@eac.gov](mailto:cmccormick@eac.gov) | [www.eac.gov](http://www.eac.gov)

---

email: "bsoder@eac.gov Brenda Soder"  
To: email: "cmccormick@eac.gov Christy McCormick"

Wednesday, August 14, 2019 at 2:09:33 PM Eastern Daylight Time

Here is the clean version I will send to him. THANK YOU! I know you're busy, so I appreciate you writing this.

The following is statement from EAC Chairwoman Christy McCormick:

"As I stated at the outset of my NCSL presentation, I am in favor of modernizing voter registration through the DMVs. I was specifically asked by

EAC-20-0218-A-000017

NCSL to provide a counterpoint and share some of the challenges to implementing Automatic Voter Registration, of which there are many. One of these challenges is legal, which is that the U.S. Supreme Court has held that opt-out in a speech context, especially political speech, is Constitutionally inadequate. Voters should give prior consent to registering to vote for a variety of reasons, including, but not limited to, indicating political affiliation, choosing to register in a different state, or declining to register based on religious objection.

"It is extremely important for voters to remain engaged with election officials to assure their registration is accurate and up-to-date so that they are not disenfranchised and can fully participate in the electoral process. As I stated during my presentation, I am in favor of automated motor voter registration where there is simultaneous interaction and an affirmation by the voter at the time of registration, as required by the National Voter Registration Act."

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Christy A. McCormick | Chairwoman

U.S. Election Assistance Commission

[1335 East West Highway](#) | [Suite 4300](#)[Silver Spring](#) | [Maryland](#) | [20910](#)

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# NCSL Session Speaker Notes

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email: (b) (6) Dylan Lynch" Thursday, July 25, 2019 at 3:19:10 PM Eastern Daylight Time  
To: email: (b) (6) Lisa Danetz", email: "john.lindback (b) (6)", email:  
"cmccormick@eac.gov Christy McCormick", email: (b) (6) Gary Clary"  
Cc: email: (b) (6) Taylor Dybdahl"

Hello Panelist,

Thank you again for agreeing to join us in Nashville. As promised, attached is a speaker memo. It includes a rough outline of the session agenda and recapping what we discussed on the phone. The speaking notes for each section are by no means a requirement you all are the experts and I leave the exact material to you.

Please let me know if you have any questions about the session or discussion points.

Best,

Dylan Lynch

## National Conference of State Legislatures

7700 E. First Place, Denver, CO 80230

(b) (6)

[www.ncsl.org](http://www.ncsl.org)

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# NCSL Summit: Thank You!

email: (b) (6) Dylan Lynch"  
To: email: "cmccormick@eac.gov Christy McCormick"

Tuesday, August 20, 2019 at 3:26:22 PM Eastern Daylight Time

Hello Commissioner McCormick,

It was very nice to see you again Nashville. Now that we've had a chance to catch-up after Summit, I wanted to take a minute to formally thank you for participating in our DMV session. I know you've filled this role before at NCSL events,

but we always appreciate you agreeing to round out our panels. As you know, it is critical that we present balanced perspectives and your willingness to continue to work with us to achieve that goal has not gone unnoticed. Thank you again and please let us know if we can be of any assistance to you or the EAC.

Best,

Dylan Lynch

Policy Specialist—Elections and Redistricting

National Conference of State Legislatures

7700 E. First Place, Denver, CO 80230

(b) (6)

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ELECTIONS AND REDISTRICTING STANDING COMMITTEE  
2019 LEGISLATIVE SUMMIT  
NASHVILLE, TENNESSEE • AUG. 5-8, 2019

**MEMORANDUM**

**TO:** Lisa Danetz, John Lindback, Christy McCormick  
**FROM:** Dylan Lynch, NCSL, 303-856-1532  
**DATE:** July 25, 2019  
**RE:** NCSL Legislative Summit Session, Wednesday, August 7

Thank you for agreeing to participate in the session, **The DMV: A Key Ally in Voter Registration** at NCSL's Legislative Summit in Nashville, TN. This document should give you all the information you need to prepare.

**The session's official description:** Since the implementation of the National Voter Registration Act of 1993 (aka the Motor-Voter Law), motor vehicle bureaus have been key players in voter registration. In 2016, the U.S. Election Assistance Commission reported that a third of all new voter registrations originated at DMVs. Learn how states are modernizing the link between DMVs and voter registration.

Below are **logistical details** for the session:

Date & Time: Wednesday, August 7; 2-3:15pm  
Location: Convention Center 104ABC  
AV Provided: Laptop, screen, projector, microphones.  
**For PowerPoint please send your presentation beforehand and bring it on a flash drive as well.**  
Handouts: **If you'd like to have a handout**, please bring it with you.  
Audience: Legislators, legislative staff, possibly a few others such as representatives from vendors  
Room Setup: Crescent rounds for 80; head table for 4; podium  
Attendance: Expect 50 but it could upwards of 80  
Recorded: No

**Program Outline for this session:**

Representative Gary Clary (South Carolina) will serve as moderator during this session. If you have slides, please send them to me prior to the session (Friday, August 2 would be the preferred deadline). I would like to have all panelists on stage from the beginning to help facilitate the transitions and to also offer any other insights during the presentations. Everyone will have 20 minutes to present. We will save the questions until the end and for the full panel.

2:00 pm – **Rep. Clary** – Will introduce the session and panelists (I will have short bios for you).

2:03 pm – **Lisa Danetz (20 minutes)** – Will discuss the DMV's role in registration and elections more generally (VR, voter verification, list maintenance, IDs, etc). In addition, introduce how DMVs got this role and why it makes sense for them to be in that role.

2:23 pm – **John Lindback (20 minutes)** – Will provide an overview on the landscape of AVR and will discuss the nuances of systems states have implemented or are exploring. What do the nuances mean for voters or election administrators? And why do advocates of AVR think it is a good idea?

2:43 pm – **Commissioner McCormick (20 minutes)** – Will address the question of how far should the government go in registering individuals? Or, how much should be left to the individual? Also, have there been instances of challenges that states have faced or could face in implementing a modernized, automated or automatic voter registration system.

3:03 pm – **Rep Clary (10-15 mins)** – Can ask a first question and then field questions from the audience. One possible question could be: Has the NVRA/motor-voter been successful? Or in hindsight, could things have been done differently?

#### Staff Contacts

| Before August 2 <sup>nd</sup> :       | At Summit:               |
|---------------------------------------|--------------------------|
| Wendy Underhill<br>(b) (6)<br>(b) (6) | (b) (6)<br>Or via e-mail |
| Dylan Lynch<br>(b) (6)<br>(b) (6)     | (b) (6)<br>Or via e-mail |