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2022 FEB 18 PM 1:01

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**IN THE FIRST JUDICIAL DISTRICT COURT**

**OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

EMILY PERSAUD-ZAMORA, an individual,

Plaintiff,

vs.

BARBARA CEGAVSKE, in her official capacity as NEVADA SECRETARY OF STATE,

Defendant.

Case No.: 220C 00227

Dept. No.: 7

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF CHALLENGING INITIATIVE PETITION C-03-2022**

**PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES**

COMES NOW, Plaintiff Emily Persaud-Zamora, an individual registered to vote in Nevada, by and through her attorneys of record, hereby submits this Memorandum of Points and

1 Authorities in Support of the Complaint for Declaratory and Injunctive Relief Challenging Initia-  
2 tive Petition C-03-2022 as follows:

3 **I. INTRODUCTION**

4 Initiative Petition C-03-2022 (“the Petition”) seeks to amend the Nevada Constitution to  
5 make two significant changes to the electoral system: (1) requiring voters to present government-  
6 issued photo ID cards to vote in person, and (2) mandating that Nevadans who vote by mail include  
7 an identifying number from specific government-issued documents with their mail-in ballot.  
8 Among other approbations, the Petition’s description of effect claims that these changes would  
9 “increase voter integrity” and make voting “more secure” in a way that “Nevadans want.”

10 The wisdom of these new laws is highly questionable, but what Nevada law requires is not.  
11 An initiative’s description of effect “must be straightforward, succinct, and nonargumentative, and  
12 it must not be deceptive or misleading.” *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129  
13 Nev. 35, 42, 293 P.3d 874, 879 (2013) (quotation marks and citation omitted). The Petition violates  
14 each of these requirements. Most notably, the entire second half of the description of effect is  
15 argumentative advocacy, containing no objective information and simply recommending the Peti-  
16 tion’s enactment with unsupported conjecture. As a result, the description of effect violates Nevada  
17 law. *No Solar Tax PAC v. Citizens for Solar & Energy Fairness*, No. 70146, 2016 WL 4182739 at  
18 \*2 (Nev. 2016) (unpublished disposition). Even the nonargumentative information in the descrip-  
19 tion is incomplete, confusing, and misleading, ultimately failing to “explain the[] ramifications of  
20 the proposed amendment” and inform signatories “of the nature and effect of that which is pro-  
21 posed,” as NRS 295.009(1)(b) requires. *Nev. Judges Ass’n v. Lau*, 112 Nev. 51, 59, 910 P.2d 898,  
22 903 (1996); *Stumpf v. Lau*, 108 Nev. 826, 833, 839 P.2d 120, 124 (1992) (emphasis omitted),  
23 *overruled in part on other grounds by Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 888, 141 P.3d  
24 1224, 1231 (2006).

25 In addition, if the Petition were enacted, it would require Nevada to expend substantial  
26 funds, including on voter education and public outreach, revised and additional election materials,  
27 and expanded poll worker training. The Petition would not raise one cent to pay for these expend-  
28 itures, and the Nevada Constitution is clear that such unfunded mandates are void.



1 For these reasons, the Petition does not comply with the requirements of Nevada law, and  
2 the Court should enjoin the Secretary from taking any further action on it in its current form.

## 3 II. THE INITIATIVE PETITION

4 On January 12, 2021, the Petition was filed with the Secretary of State Barbara Cegavske.  
5 See **Exhibit 1**, a true and accurate copy of the Notice of Intent to Circulate Statewide Initiative or  
6 Referendum Petition associated with Initiative Petition C-03-2022. It seeks to amend the Nevada  
7 Constitution in two significant ways. *First*, it would prohibit Nevadans from voting in person un-  
8 less they present photo ID deemed acceptable for this purpose. Ex. 1 at 2. The law would establish  
9 differing rules for the use of expired ID depending on the voter's age: while most voters would be  
10 prohibited from using ID that is more than four years expired, voters over 70 would be exempted.  
11 Ex. 1 at 2. *Second*, the Petition would require that Nevadans who vote by mail list an identifying  
12 number from a specified government-issued document when submitting their ballots. Ex. 1 at 2.  
13 Voters who possess a Nevada driver's license would be required to list the last four digits of their  
14 license number, those who lack a qualifying license would list the last four digits of their Social  
15 Security numbers, and those that have neither would list a special number provided for this purpose  
16 by the county clerk when they registered to vote. Ex. 1 at 2.

17 The negative effect that strict voter ID laws like those the Petition proposes on voter par-  
18 ticipation are well documented. One of the most widely cited studies found that as many as 11%  
19 of U.S. citizens—or more than 21 million Americans—do not have the kind of photo ID the Peti-  
20 tion would require. Brennan Ctr. for Justice, *Citizens without Proof: A Survey of Americans' Pos-  
21 session of Documentary Proof of Citizenship and Photo Identification* 1 (2006), [http://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_39242.pdf](http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf). Eligible Black, Hispanic,  
22 young, and low-income voters are significantly more likely to lack photo ID than their white, non-  
23 Hispanic, older, and higher-income counterparts. *Id.* at 3. And the combined cost of document  
24 fees, travel expenses, and waiting time needed to obtain even ostensibly “free” ID is estimated to  
25 range from \$75 to \$175, placing them out of reach of many eligible voters. Richard Sobel, Charles  
26 Hamilton Houston Institute for Race & Justice at Harvard Law School, *The High Cost of 'Free'*  
27

1 *Photo Voter Identification Cards* (2014), [https://today.law.harvard.edu/wp-content/up-](https://today.law.harvard.edu/wp-content/uploads/2014/06/FullReportVoterIDJune20141.pdf)  
2 [loads/2014/06/FullReportVoterIDJune20141.pdf](https://today.law.harvard.edu/wp-content/uploads/2014/06/FullReportVoterIDJune20141.pdf). Here, the Petition would not provide for free ID,  
3 and Nevada currently provides free ID only in very limited circumstances. *See* Nevada Dep't of  
4 Motor Vehicles, *Nevada Identification Cards*, <https://dmvnev.com/idcards.htm> (last visited Feb. 16,  
5 2022) (“Persons age 25 and older who declare themselves homeless are entitled to a *one-time* fee  
6 exemption for a *duplicate* Nevada license or ID card.” (emphases in original)). As a consequence  
7 of these types of obstacles, the U.S. Government Accountability Office estimates that strict voter  
8 ID requirements reduce turnout by two to three percent, translating to thousands of fewer voters  
9 casting their ballots every election cycle. Gov’t Accountability Office, *Issues Related to State*  
10 *Voter Identification Laws* 48 (2014), <http://www.gao.gov/assets/670/665966.pdf>.

11 Likewise, mail-in ballot procedures like those the Petition proposes have caused large scale  
12 disenfranchisement and election administration problems in states that have attempted them. In  
13 Texas, a similar newly instituted requirement has already resulted in thousands of vote by mail  
14 applications and hundreds of returned ballots’ being rejected. Gabriel C. Pérez, *Election officials*  
15 *say Texas’ new ID rules for voting by mail could cause more ballots to get rejected*, Austin Monitor  
16 (Feb. 8, 2022), [https://www.austinmonitor.com/stories/2022/02/election-officials-say-texas-new-](https://www.austinmonitor.com/stories/2022/02/election-officials-say-texas-new-id-rules-for-voting-by-mail-could-cause-more-ballots-to-get-rejected/)  
17 [id-rules-for-voting-by-mail-could-cause-more-ballots-to-get-rejected/](https://www.austinmonitor.com/stories/2022/02/election-officials-say-texas-new-id-rules-for-voting-by-mail-could-cause-more-ballots-to-get-rejected/). In Harris County, a full  
18 40% of mail-in ballots returned since the new law took effect have been flagged for rejection.  
19 Alexa Ura, *Hundreds of mail-in ballots are being returned to Texas voters because they don’t*  
20 *comply with new voting law*, Texas Tribune (Feb. 10, 2022), [https://www.texastrib-](https://www.texastribune.org/2022/02/10/texas-mail-voting-rejections/)  
21 [une.org/2022/02/10/texas-mail-voting-rejections/](https://www.texastribune.org/2022/02/10/texas-mail-voting-rejections/). Implementing the law also required an expen-  
22 sive redesign of carrier envelopes, *id.*, as well as training for county officials, Taylor Goldenstein,  
23 *Texas Secretary of State scrambles to address mail ballot application problems as deadline looms*,  
24 Houston Chronicle (Jan. 19, 2022), [https://www.houstonchronicle.com/politics/texas/arti-](https://www.houstonchronicle.com/politics/texas/article/Texas-Secretary-of-State-scrambles-to-address-16786098.php)  
25 [cle/Texas-Secretary-of-State-scrambles-to-address-16786098.php](https://www.houstonchronicle.com/politics/texas/article/Texas-Secretary-of-State-scrambles-to-address-16786098.php). The costs and problems asso-  
26 ciated with the measure are likely to be much worse in Nevada, where reliance on voting by mail  
27 is more prevalent and all voters receive mail-in ballots unless they opt out. *See* NRS AB 321,  
28 § 3(1).



1 At the same time, it has been repeatedly proven that the voter-impersonation fraud that  
2 voter ID laws purportedly aim to prevent is so negligible as to be nearly nonexistent. *See* Brennan  
3 Ctr. for Justice, *Debunking the Voter Fraud Myth* 1-4 (2020) [https://www.brennan-](https://www.brennan-center.org/sites/default/files/analysis/Briefing_Memo_Debunking_Voter_Fraud_Myth.pdf)  
4 [center.org/sites/default/files/analysis/Briefing\\_Memo\\_Debunking\\_Voter\\_Fraud\\_Myth.pdf](https://www.brennan-center.org/sites/default/files/analysis/Briefing_Memo_Debunking_Voter_Fraud_Myth.pdf) (col-  
5 lecting sources). In total, an estimated one person for every *ten million* votes cast faced voter fraud  
6 charges stemming from the 2020 election. Philip Bump, *Despite GOP rhetoric, there have been*  
7 *fewer than two dozen charged cases of voter fraud since the election*, Wash. Post (May 4, 2021),  
8 [https://www.washingtonpost.com/politics/2021/05/04/despite-gop-rhetoric-there-have-been-](https://www.washingtonpost.com/politics/2021/05/04/despite-gop-rhetoric-there-have-been-fewer-than-two-dozen-charged-cases-voter-fraud-since-election/)  
9 [fewer-than-two-dozen-charged-cases-voter-fraud-since-election/](https://www.washingtonpost.com/politics/2021/05/04/despite-gop-rhetoric-there-have-been-fewer-than-two-dozen-charged-cases-voter-fraud-since-election/). Nevada was no exception. Here,  
10 fewer than twenty-five out of the state's over 1.3 million ballots were even *flagged for further*  
11 *review* in an audit by the Secretary's office. David Charms, *I-Team: A year and one guilty plea*  
12 *later, Republicans remain quiet on false allegations of voter fraud*, 8 News Now Las Vegas (Dec.  
13 3, 2021) [https://www.8newsnow.com/i-team/i-team-year-and-guilty-plea-later-republicans-re-](https://www.8newsnow.com/i-team/i-team-year-and-guilty-plea-later-republicans-re-main-quiet-on-false-allegations-of-voter-fraud-nevada-las-vegas/)  
14 [main-quiet-on-false-allegations-of-voter-fraud-nevada-las-vegas/](https://www.8newsnow.com/i-team/i-team-year-and-guilty-plea-later-republicans-re-main-quiet-on-false-allegations-of-voter-fraud-nevada-las-vegas/). The sole guilty plea to have  
15 emerged was by a Nevada man who *himself* cast his deceased wife's absentee ballot *in order to*  
16 *create the appearance of voter fraud* for political reasons. *See id.*

17 The Petition's description of effect assumes as truth these disproven claims, asserting that  
18 the proposed amendments "will increase voter integrity" and address purported concerns by Ne-  
19 vadans about "confidence that all ballots submitted during an election are cast only by eligible  
20 voters." The Petition's description of effect reads, in full:

21 If passed, this initiative would amend the State Constitution to require that  
22 all persons voting in person present an approved photo identification before  
23 being provided a ballot. It also requires that voters submitting a mail-in bal-  
24 lot provide additional verification of their identity when completing their  
25 mail-in ballot using the number provided on their voter registration form  
26 when they registered to vote. *This amendment will **increase voter integrity***  
27 *by ensuring that any person casting a ballot in Nevada is, in fact, the duly*  
28 *registered voter. It will also **improve** and **speed up** the mail-in ballot veri-*  
*fication process by providing a second, **more secure** means of verifying that*  
*the mail-in ballot was completed by the registered voter. **Nevadans want***  
***confidence that all ballots submitted during an election are cast only by***  
***eligible voters.***

1 Ex. 1 at 3, 4 (emphases added).

### 2 **III. LEGAL STANDARD**

3 Nevada law allows challenges to an initiative petition when the description of effect is  
4 deficient. NRS 295.061. Similarly, Nevada courts have characterized Article 19, Section 6's pro-  
5 hibition on initiatives that mandate unfunded expenditures as a "threshold content restriction" that  
6 is ripe for review before the initiative is enacted. *Herbst Gaming*, 122 Nev. at 890 n.38 (quoting  
7 *Rogers v. Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036 (2001)).

### 8 **IV. ARGUMENT**

#### 9 **A. The Petition's description effect violates NRS 295.009(1)(b) because it is argumen-** 10 **tative, confusing, deceptive, and misleading.**

11 Under NRS 295.009(1)(b), every initiative must "[s]et forth, in not more than 200 words,  
12 a description of the effect of the initiative or referendum if the initiative or referendum is approved  
13 by the voters." The purpose is to "prevent voter confusion and promote informed decisions." *Ne-*  
14 *vadans for Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006). The Nevada Supreme  
15 Court has repeatedly held that "a description of effect must be straightforward, succinct, and non-  
16 argumentative, and it must not be deceptive or misleading." *Educ. Initiative PAC*, 129 Nev. at 37.  
17 "The importance of the description of effect cannot be minimized, as it is what the voters see when  
18 deciding whether to even sign a petition." *Coal. for Nev.'s Future v. RIP Com. Tax, Inc.*, No.  
19 69501, 2016 WL 2841915 at \*2 (2016) (unpublished disposition) (citing *Educ. Initiative PAC*, 129  
20 Nev. at 37). Here, the Petition's description of effect violates each of these requirements.

#### 21 **1. The Petition's description of effect contains argumentative advocacy.**

22 First, the description of effect is not straightforward, succinct, or nonargumentative as over  
23 half of its text is dedicated to advocacy for the Petition's passage. Moreover, the subjective nature  
24 of this advocacy makes the description as a whole confusing and deceptive or misleading.

25 The description asserts that the proposed measure will "increase voter integrity by ensuring  
26 that any person casting a ballot in Nevada is, in fact, the duly registered voter." Ex. 1 at 3, 4.  
27 Nowhere does the Petition explain what "voter integrity" means, and courts have found that a  
28 description may not properly utilize vague, undefined terms the meaning of which voters must



1 guess at to discern. See *No Solar Tax PAC*, 2016 WL 4182739 at \*2 (invalidating a description of  
2 effect that “us[ed] terms that are not in the statutory language, such as ‘green energy’”). Attempts  
3 to derive a definition from common usage only adds to the confusion. “Integrity” is typically de-  
4 fined as “the quality of being honest and fair” or “the state of being complete or whole.” Integrity,  
5 Merriam-Webster (2022), <https://www.merriam-webster.com/dictionary/integrity>. Assuming the  
6 term “voter integrity” refers to the integrity of voters, the claim that the ID requirements will in-  
7 crease voters’ integrity is self-evidently inaccurate. Simply put, whether a voter is honest or fair  
8 has nothing to do with whether they have or present the forms of ID the Petition would require.  
9 The description is also misleading and argumentative if “voter integrity” is interpreted to mean the  
10 integrity of Nevada’s electoral processes. There is no evidence that elections in Nevada are not  
11 currently conducted in a way that is honest, fair, and provides for a complete accounting of legal  
12 votes. Arbitrarily precluding large numbers of legal, eligible voters from casting their ballots  
13 merely because they lack or fail to present one of the forms of ID listed in the Petition will make  
14 elections *less* fair and their results a *less* complete and honest reflection of the electorate’s collec-  
15 tive choice.

16 Next, the description claims that the measure would “also improve and speed up the mail-  
17 in ballot verification process by providing a second, more secure means of verifying that the mail-  
18 in ballot was completed by the registered voter.” Ex. 1 at 3, 4. But whether the current process  
19 would be “improved” is the kind of normative value judgement that is inherently argumentative  
20 and ambiguous—“a catch-all [term] that is subject to shifting and imprecise meanings, not a neu-  
21 tral, descriptive phrase” as Nevada law requires. *Prevent Sanctuary Cities v. Haley*, No. 74966,  
22 2018 WL 2272955 at \*4 (Nev. 2018). Nor is there any evidence that the procedure for mail-in  
23 ballot verification would be faster or “more secure” than Nevada’s current processes, and, again,  
24 the implication that the current system is slow and insecure “is inherently speculative and argu-  
25 mentative and is not proper for inclusion within a description of effect.” *BizPAC v. Fund Our*  
26 *Schs.*, No. 81085, 2020 WL 4550932 at \*2 (Nev. 2020) (unpublished disposition); see also *No*  
27 *Solar Tax PAC*, 2016 WL 4182739 at \*2 (invalidating an “argumentative” referendum description  
28 that claimed charges under existing law were “unaffordable and cost-prohibitive” and that repeal

1 of the law would result in rates that were more “reasonable”).

2 The description additionally states that “Nevadans want confidence that all ballots submit-  
3 ted during an election are cast only by eligible voters.” Ex. 1 at 3, 4. If the description is asserting  
4 that Nevadans currently lack confidence or have good reason to doubt that only eligible ballots are  
5 being counted in the state’s elections, this claim has no basis in objective fact. And if the descrip-  
6 tion is audaciously claiming that Nevadans support the measures it would enact, the statement is  
7 at best premature and at worst objectively false. The Petition obviously cannot speak on behalf of  
8 all Nevadans and attempts to garner signatures through peer pressure have no place in the descrip-  
9 tion of effect NRS 295.009(1)(b) requires.

10 **2. The Petition’s description of effect omits and misstates important details.**

11 Even setting aside the argumentative advocacy that comprises most of the Petition’s de-  
12 scription of effect, the text that remains fails to give a complete and accurate accounting of the  
13 Petition’s significant effects as Nevada law requires. Although a description need not “explain  
14 hypothetical effects” or “mention every possible effect” of the initiative, *Educ. Initiative PAC*, 129  
15 Nev. at 37, it must at very least fairly present enough information for a potential signer to make an  
16 informed decision about whether to support the initiative. *See Nev. Judges Ass’n v. Lau*, 112 Nev.  
17 at 59 (rejecting initiative description for “failure to explain [certain] ramifications of the proposed  
18 amendment,” which “renders the initiative and its explanation potentially misleading”).

19 Here, the description omits crucial information regarding how the new restrictions will  
20 function. It does not, for example, provide voters with any information about which types of doc-  
21 uments would constitute “an approved photo identification” for in-person voting. Nor does it men-  
22 tion that the Petition would set differing rules for voters’ use of expired ID. And the description  
23 does not explain what specific information voters will be required to use to “provide additional  
24 verification of their identity” to vote by mail. In reality, if the Petition were enacted, many *eligible*  
25 voters could have their ballots rejected because the form of verification they provide on their ballot  
26 may not be the same information they provided when they registered to vote—a fact that is highly  
27 relevant to prospective signatories’ decision. These significant gaps are “fatal omission that effec-  
28 tively prevents the signers from knowing what they are signing.” *Stumpf*, 108 Nev. at 832.



1 None of these omissions can be defended on the theory that “the 200–word limitation im-  
2 posed on descriptions of effect” would make it “impossible to include all of the [necessary] infor-  
3 mation.” *Educ. Initiative PAC*, 129 Nev. at 42. The Petition’s description of effect is only 131  
4 words. Even without eliminating the 70 words of superfluous, argumentative advocacy that make  
5 up the description’s second half, there was ample room to address these important—and actual—  
6 effects that are highly likely to influence a signatory’s decision. The failure to fully “identify what  
7 the law proposes and how it intends to achieve that proposal” is inexcusable. *Id.*

8 Finally, what little objective information the description of effect does contain is inaccur-  
9 rate, deceptive, and misleading. The Court must analyze “whether the information contained in the  
10 description is correct and does not misrepresent what the initiative will accomplish and how it  
11 intends to achieve those goals.” *Id.* at 48. Here, the description states that the Petition would require  
12 “that voters submitting a mail-in ballot provide additional verification of their identity when com-  
13 pleting their mail-in ballot *using the number provided on their voter registration form when they*  
14 *registered to vote.*” Ex. 1 at 3, 4 (emphasis added). But this is not accurate. What the Petition  
15 would actually require is that voters who have a driver’s license include that number, voters who  
16 do not have a license provide the last four digits of their Social Security numbers, and voters who  
17 have neither provide a unique number provided *to them* (the voters) by the county clerk when they  
18 registered to vote. This is an important distinction. First, nowhere does the Petition require that  
19 these numbers must also be provided by the voters on the voters’ initial registration forms. Nevada  
20 has not traditionally required voters to provide all of this information when registering, and many  
21 voters may not have provided this information when they registered (because it was not required).  
22 Furthermore, voters are highly unlikely to remember which of these numbers (if any) they provided  
23 on their voter registration forms. Similar laws recently enacted in other states have predictably  
24 quickly led to chaos, as election officials grapple with attempting to obtain information from voters  
25 that they do not presently have, and voters have no idea what information they previously provided,  
26 or need now provide to “match” whatever election officials have on file. The description of effect  
27 therefore misleadingly references a requirement that does not appear in the actual amendments the  
28

1 Petition would enact, and it “materially fails to accurately identify the consequences of the refer-  
2 endum’s passage.” *Las Vegas Taxpayer Accountability Comm. v. City Council of City of Las Ve-*  
3 *gas*, 125 Nev. 165, 184, 208 P.3d 429, 441 (2009) (invalidating description that stated “referen-  
4 dum’s passage would halt only new, additional development projects” when it would “also affect  
5 existing redevelopment projects”).

6 **B. The Petition Violates the Nevada Constitution’s Prohibition on Initiatives that**  
7 **Mandate Unfunded Expenditures**

8 The Petition is also separately invalid because it mandates expenditures without providing  
9 reciprocal revenues in violation of Article 19, Section 6 of the Nevada Constitution. That provision  
10 prohibits any initiative that “makes an appropriation or otherwise requires the expenditure of  
11 money, unless such statute or amendment also imposes a sufficient tax, not prohibited by the Con-  
12 stitution, or otherwise constitutionally provides for raising the necessary revenue.” Nev. Const.  
13 art. 19, § 6. “Section 6 applies to all proposed initiatives, without exception, and does not permit  
14 any initiative that fails to comply with the stated conditions.” *Rogers*, 117 Nev. at 173. “If the  
15 Initiative does not comply with section 6, then the Initiative is void” in its entirety, and the offend-  
16 ing provision cannot be severed to render it constitutional. *Id.* at 173, 177-78.

17 “Simply stated, an appropriation is the setting aside of funds, and an expenditure of money  
18 is the payment of funds.” *Rogers*, 117 Nev. at 173. Nevada prohibits initiatives that require appro-  
19 priations or expenditures to “prevent[] the electorate from creating the deficit that would result if  
20 government officials were forced to set aside or pay money without generating the funds to do so.”  
21 *Herbst Gaming*, 122 Nev. at 891. An initiative need not “by its terms appropriate money” to violate  
22 the prohibition. *Id.* at 890 n.40 (citing *State ex rel. Card v. Kaufman*, 517 S.W.2d 78, 80 (Mo.  
23 1974)). Rather, “an initiative makes an appropriation or expenditure when it leaves budgeting of-  
24 ficials no discretion in appropriating or expending the money mandated by the initiative—the  
25 budgeting official must approve the appropriation or expenditure, regardless of any other financial  
26 considerations.” *Id.* at 890. This is precisely what the Petition does.

27 It is self-evident that the Petition proposes would come only with significant public ex-  
28 pense, as has been the case elsewhere. See Nat’l Conference of State Legislatures, *Costs of Voter*



1 *Identification*, (June 2014), [https://www.ncsl.org/documents/legismgt/elect/Voter\\_ID\\_Costs\\_Jun](https://www.ncsl.org/documents/legismgt/elect/Voter_ID_Costs_June2014.pdf)  
2 [e2014.pdf](https://www.ncsl.org/documents/legismgt/elect/Voter_ID_Costs_June2014.pdf). The new in-person requirements alone would necessitate extensive voter education and  
3 outreach, revised and additional election materials, and expanded training, which have cost hun-  
4 dreds of thousands of dollars in states that have adopted similar laws. *See id.* at 2-3. Nevada would  
5 also likely have to expand access to free ID in order for the new scheme to be constitutional, which  
6 would come with additional associated costs. *Id.* at 2 (citing *Crawford v. Marion Cnty. Election*  
7 *Bd.*, 553 U.S. 181, 196-97 (2008)).

8 The new mail-in ballot identification requirements would mandate that the State spend  
9 even more funds. Mail ballots and envelopes would have to be redesigned, *see* Goldenstein, *supra*,  
10 and automated signature verification machines would likely need to be recalibrated to accommo-  
11 date the changes. A process for conducting verification would also need to be developed, with  
12 election officials trained on the new procedures and, if the verification is to be automated, new  
13 software and equipment purchased. And, to the extent election officials currently lack the infor-  
14 mation required to perform the verification for many voters, the new requirement would necessi-  
15 tate an expensive information gathering campaign on the part of the State.

16 Each of these expenditures is inherently required by the Petition, whose measures cannot  
17 be achieved without them. The Petition accordingly leaves “budgeting officials no discretion in  
18 appropriating or expending the money mandated by the initiative—the budgeting official must  
19 approve the appropriation or expenditure” to comply with its provisions. *Herbst Gaming*, 122 Nev.  
20 at 890. The Petition thus requires an appropriation and expenditure. And, because no portion of  
21 the Petition “provides for raising the necessary revenue,” as Article 19, Section 6 requires, it is  
22 void *ab initio*. *Rogers*, 117 Nev. at 173.

## 23 V. CONCLUSION

24 Because the description of effect is argumentative, misleading, and confusing, it is legally  
25 insufficient. And because the Petition mandates significant public expenditures without providing  
26 for reciprocal revenues, it violates Article 19, Section 6 and is void. For the reasons set forth above,  
27 the Court should grant Plaintiff’s requested relief, striking the Petition and issuing an injunction  
28 prohibiting the Secretary from taking further action upon it.

1 **AFFIRMATION**

2 The undersigned hereby affirm that the foregoing document does not contain the social  
3 security number of any person.

4 DATED this 18<sup>th</sup> day of February, 2022.

5 **WOLF, RIFKIN, SHAPIRO,**  
6 **SCHULMAN & RABKIN, LLP**

7 By: 

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*Attorneys for Plaintiff*



# EXHIBIT 1

RETRIEVED FROM DEMOCRACYDOCKET.COM

# EXHIBIT 1

received  
Jan. 28, 2022

## NOTICE OF INTENT TO CIRCULATE STATEWIDE INITIATIVE OR REFERENDUM PETITION

State of Nevada



Secretary of State Barbara K. Cegavske

Pursuant to NRS 295.015, before a petition for initiative or referendum may be presented to registered voters for signatures, the person who intends to circulate the petition must provide the following information:

**NAME OF PERSON FILING THE PETITION**

David G. Gibbs

**NAME(S) OF PERSON(S) AUTHORIZED TO WITHDRAW OR AMEND THE PETITION (provide up to three)**

1. David G. Gibbs

2.

3.

**NAME OF THE POLITICAL ACTION COMMITTEE (PAC) ADVOCATING FOR THE PASSAGE OF THE INITIATIVE OR REFERENDUM (if none, leave blank)**

Repair the Vote

Please note, if you are creating a Political Action Committee for the purpose of advocating for the passage of the initiative or referendum, you must complete a separate PAC registration form.

Additionally, a copy of the initiative or referendum, including the description of effect, must be filed with the Secretary of State's office at the time you submit this form.

X A handwritten signature in black ink, appearing to read "David G. Gibbs", written over a horizontal line.

Signature of Petition Filer

A handwritten date "28 Jan 22" in black ink, written over a horizontal line.

Date



# **State of Nevada - Initiative Petition – Constitutional Amendment**

The People of the State of Nevada do enact as follows:

## **FULL TEXT OF THE PROPOSED MEASURE**

Article 2 of the Nevada Constitution is hereby amended by adding thereto new sections to be designated as Section 1B and Section 1C, to read as follows:

**Sec 1B. Photo Identification.** Each voter in Nevada shall present photo identification to verify their identity when voting in person at a polling place during early voting or on election day before being provided a ballot. To be considered valid, the photo identification must be current or expired for no more than four years. If the voter is 70 years old or more, the identification can be expired for any length of time, so long as it is otherwise valid. Acceptable forms of identification include:

1. Nevada driver's license.
2. Identification card issued by the State of Nevada, any other State, or the US Government.
3. Employee photo identification card issued by the US government, Nevada government, or any county, municipality, board, authority, or other Nevada government entity.
4. US passport.
5. US military identification card.
6. Student photo identification card issued by a Nevada public college, university, or technical school.
7. Tribal photo identification.
8. Nevada concealed firearms permit.
9. Other form of government-issued photo identification that the Legislature may approve.

**Sec 1C. Voter Verification.** Each voter in Nevada who votes by mail-in ballot shall enter one of the following in the block provided next to the voter's signature for election officials to use in verifying the voter's identity:

1. The last four digits of their Nevada driver's license number.
2. If the voter does not possess a Nevada driver's license, the last four digits of their Social Security number.
3. If the voter has neither a Nevada driver's license or a Social Security number, the number provided by the county clerk when the voter registered to vote.

**The remainder of this page intentionally left blank.**

## DESCRIPTION OF EFFECT

If passed, this initiative would amend the State Constitution to require that all persons voting in person present an approved photo identification before being provided a ballot. It also requires that voters submitting a mail-in ballot provide additional verification of their identity when completing their mail-in ballot using the number provided on their voter registration form when they registered to vote. This amendment will increase voter integrity by ensuring that any person casting a ballot in Nevada is, in fact, the duly registered voter. It will also improve and speed up the mail-in ballot verification process by providing a second, more secure means of verifying that the mail-in ballot was completed by the registered voter. Nevadans want confidence that all ballots submitted during an election are cast only by eligible voters.

County of \_\_\_\_\_ (**Only registered voters of this county may sign below**)  
 Petition District \_\_\_\_\_ (**Only registered voters of this petition district may sign below**)

			This Space For Office Use Only	
<b>1</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	DATE / /	CITY	COUNTY
<b>2</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	DATE / /	CITY	COUNTY
<b>3</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	DATE / /	CITY	COUNTY
<b>4</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	DATE / /	CITY	COUNTY
<b>5</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	DATE / /	CITY	COUNTY
<b>6</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	DATE / /	CITY	COUNTY



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County of \_\_\_\_\_ (Only registered voters of this county may sign below)  
 Petition District \_\_\_\_\_ (Only registered voters of this petition district may sign below)

This Space For  
Office Use Only

<b>7</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE	DATE / /	CITY	COUNTY	
<b>8</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE	DATE / /	CITY	COUNTY	
<b>9</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE	DATE / /	CITY	COUNTY	
<b>10</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE	DATE / /	CITY	COUNTY	
<b>11</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE	DATE / /	CITY	COUNTY	
<b>12</b>	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE	DATE / /	CITY	COUNTY	

**THE FOLLOWING AFFIDAVIT MUST BE COMPLETED AND SIGNED:**

**AFFIDAVIT OF CIRCULATOR**

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA )

)

COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that

I reside at \_\_\_\_\_

(print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all

signatures were affixed in my presence; (5) that the number of signatures affixed thereon is \_\_\_\_\_; and (6)

that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Subscribed and sworn to or affirmed before me this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Signature of Circulator

\_\_\_\_\_  
Notary Public or person authorized to administer oath

EL501C  
Revised 8/2019

Page 4 of 4

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