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Elizabeth A. Brown
Clerk of Supreme Court

Attorneys for Appellant Fair Maps Nevada

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

<p>FAIR MAPS NEVADA, A NEVADA POLITICAL ACTION COMMITTEE, Appellant,</p> <p>vs.</p> <p>ERIC JENG, AN INDIVIDUAL; AND FRANCISCO AGUILAR, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE, Respondents.</p>	<p>Case No. 88263</p>
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**EMERGENCY MOTION TO EXPEDITE AND RESOLVE APPEAL
ON THE DISTRICT COURT RECORD**

Appellant Fair Maps Nevada (“Fair Maps”) requests, pursuant to NRAP 2 and NRAP 27(e) that this Court expedite the resolution of this appeal so that it can be decided in time for Fair Maps’ initiative petitions to qualify for the 2024 general election ballot. Despite statutory direction provided to the district court pursuant to NRS

295.061(1) to give initiative petitions priority treatment, this case languished in the district court for *ninety days* until the district court entered its Order. As signatures on the initiative petitions are due by June 26, 2024, time is of the essence and emergency relief is warranted. The sole issues in this matter were briefed extensively at the district court, and Fair Maps accordingly requests that the Court schedule oral argument on the earliest available date and decide this appeal on the district court record, without further delay occasioned by additional briefing. This emergency Motion pursuant to NRAP 27(e) is based on the following Memorandum of Points and Authorities and the papers on file with this Court.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Time is of the essence in ballot litigation. On March 6, 2024, the District Court determined that Fair Maps' Initiative Petition C-03-2023 and C-04-2023 ("Petitions") were legally deficient and therefore enjoined the Nevada Secretary of State from placing the Petitions on the 2024 general election ballot. For Fair Maps to obtain meaningful appellate relief, this relief must be provided not just in time for the November 2024 general election, but also in time for Fair Maps to qualify the

Petitions for the ballot. There are strict timeframes for initiative petitions and the delay caused by legal challenges can secure a *de facto* victory for the challengers. To qualify the Petitions, Fair Maps must obtain 102,362 valid signatures in support of each of the Petitions by June 26, 2024. The uncertainty surrounding the Petitions due to the District Court's Order will significantly impact Fair Maps' ability to gather signatures and qualify for the ballot. There is insufficient time for this Court to resolve this appeal in the normal course or even to hear this Motion in the normal course. Accordingly, to preserve its right to meaningful appellate relief, Fair Maps requests that this appeal be expedited such that it is set for oral argument on the next available calendar date and decided on the basis of the District Court record. The issues have been fully briefed and are ripe for this Court to decide as soon as possible.

II. PROCEDURAL HISTORY

Fair Maps filed the Petitions with the Secretary of State of Nevada on November 14, 2023. Respondent Eric Jeng ("Jeng") filed his Complaints for Declaratory and Injunctive Relief in the First Judicial District Court on the last possible day, December 7, 2023, along with his Memorandums of Points and Authorities in Support of his Complaints

for Declaratory and Injunctive Relief. Fair Maps filed its Memorandums of Points and Authorities in Response to Jeng’s Complaints on December 26, 2023. Jeng filed Replies in Support of his Complaints on January 3, 2024. On January 22, 2024, Respondent Francisco Aguilar (“Secretary of State”) filed its answers and limited responses to Jeng’s memorandum of points and authorities in support of his Complaints.

After additional delay and despite the statutory instruction to hold a hearing within 15 days of the filing of a complaint, NRS 295.061(1), on February 15, 2024, the District Court held a hearing at which it heard oral argument from Fair Maps and Respondents Jeng and the Secretary of State but did not receive any evidence. On March 6, the District Court issued its Order.

III. ARGUMENT

Litigation over ballot questions is extremely time-sensitive due to tight election deadlines. Under a standard litigation timeframe, a legal challenge could functionally defeat a ballot question simply by delaying the initiative process until after the deadline to collect signatures. For this reason, NRS 295.061(1) specifically provides that a challenge to an initiative must be filed “not later than 15 days . . . after a copy of the petition is placed on file with the Secretary of State . . .” Furthermore,

the “court shall set the matter for hearing not later than 15 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.” *Id.* NRAP 2 provides that “[o]n its own or a party’s motion, the Supreme Court may—to expedite its decisions or for other good cause—suspend any provisions of these Rules in a particular case and order proceedings as it directs, except as otherwise provided in Rule 26(b).” This appeal should be expedited in order to protect Fair Maps’ right to meaningful appellate review.

A. Fair Maps Faces Significant Electoral Time-Pressure.

To qualify for the ballot, Fair Maps must obtain the signatures of registered voters equal to at least ten percent of the voters who voted at the last preceding General Election. Thus, 102,362 valid signatures are required to qualify each of the Petitions. The deadline to submit signatures to counties for verification is June 26, 2024. Nev. Const. Art. 19, Sec. 2(4).

Because the District Court ruled that the Petitions were invalid and cannot be placed on the ballot, Fair Maps’ ability to gather the required signatures is significantly hampered. Until the current appeal is resolved, the ongoing uncertainty will continue to harm Fair Maps.

B. The Appeal Is Immediately Ready For Decision.

Fair Maps and Jeng both presented comprehensive briefs to the District Court. See **Exhibit 1** and **Exhibit 2**, Jeng's Memorandum of Points and Authorities for Petition C-03-2023 and C-04-2023 respectively; **Exhibit 3** and **Exhibit 4**, Fair Maps' Opposing Memorandum of Points and Authorities for Petition C-03-2023 and C-04-2023 respectively; and **Exhibit 5** and **Exhibit 6**, Jeng's Reply Memorandum of Points and Authorities for Petition C-03-2023 and C-04-2023 respectively. No new evidence was presented at the District Court hearing, and Jeng failed to present any evidence at all during the matter, only additional argument from counsel that can be reviewed on the transcript. The questions on appeal are pure matters of law involving the interpretation of the Petition and NRS Chapter 295. Further briefing would only be repetitive of the proceedings at the District Court and would delay the resolution of this appeal unnecessarily.

IV. CONCLUSION

Fair Maps respectfully requests that this appeal be set for oral argument on the next available calendar date and that it be decided on the basis of the District Court record without further briefing. In the

alternative, Fair Maps requests that this Court process the appeal on an expedited basis to the extent permitted by the Court's docket.

DATED: March 11, 2024.

McDONALD CARANO LLP

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Attorneys for Fair Maps Nevada

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NRAP 27(E) CERTIFICATE

I, Katrina Weil, as counsel for Appellant, Fair Maps Nevada, certify the following pursuant to NRAP 27(e):

A. The telephone numbers, office addresses, and email addresses of the attorneys for the other parties are listed below:

Attorneys for Eric Jeng

Bradley S. Schragger, Esq.
Daniel Bravo, Esq.
6675 South Tenaya Way, Suite 200
Las Vegas, NV 89113
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Attorney for Francisco Aguilar, in his Official Capacity as Secretary of State

Laena St-Jules, Esq.
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4714
775-684-1265

B. Appellant is filing its Motion on an emergency basis to ensure the Court considers and decides its Motion as soon as possible. Despite statutory direction provided to the district court pursuant to NRS 295.061(1) to give initiative petitions priority treatment, this case

languished in the district court for ninety days until the district court entered its Order. As signatures on the initiative petition are due by June 26, 2024, time is of the essence and emergency relief is warranted.

C. I have made every practicable effort to notify the Supreme Court and opposing counsel of the filing of this Motion. I alerted opposing counsel of this Motion via email shortly before it was submitted. I also called the Clerk of the Court's office for the Nevada Supreme Court before filing. A courtesy copy was emailed to all parties.

DATED: March 11, 2024.

McDONALD CARANO LLP

By /s/ Katrina Weil

Katrina Weil (NSBN 16152)

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Reno, NV 89501

Telephone: (775) 788-2000

Attorney for Fair Maps Nevada

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD CARANO LLP and that on March 11, 2024, I served the within **MOTION TO EXPEDITE AND RESOLVE APPEAL ON THE DISTRICT COURT RECORD** on the parties in said case by electronically filing via the Court's e-filing system. The participants in this case are registered e-filing users and that service will be accomplished by e-filing to the following e-filing participants:

Bradley S. Schragger, Esq.
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100 North Carson Street
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*Attorneys for Francisco Aguilar,
In His Official Capacity As
Secretary Of State,*

I declare under penalty of perjury that the foregoing is true and correct.

DATED: March 11, 2024.

By Pamela Miller

EXHIBIT 1

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EXHIBIT 1

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BY WILLIAM SCOTT LUBEN
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15 *Attorneys for Plaintiff*

16 **IN THE FIRST JUDICIAL DISTRICT COURT**
17 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

18 ERIC JENG, an individual,
19 Plaintiff,

20 vs.

21 FRANCISCO V. AGUILAR, in his official
22 capacity as NEVADA SECRETARY OF
23 STATE;
24 Defendant

Case No.: 230C00138-1B
Dept. No.: I

**PLAINTIFF'S MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF
CHALLENGING INITIATIVE
PETITION C-03-2023**

25 Plaintiff Eric Jeng, an individual registered to vote in Nevada, by and through
26 his attorneys of record, submits this Memorandum of Points and Authorities in
27 support of his Complaint for Declaratory and Injunctive Relief challenging Initiative
28 Petition C-03-2023 as follows:

INTRODUCTION

Initiative Petition C-03-2023 (the "Petition") seeks to amend Article 4, Section
5 of the Nevada Constitution to establish the "Independent Redistricting
Commission," require that redistricting be performed by a commission rather than

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1 by the Legislature. See **Exhibit 1**, a true and accurate copy of the Notice of Intent to
2 Circulate Statewide Initiative or Referendum Petition associated with the Petition.

3 The Petition is invalid because it violates two threshold requirements of
4 Nevada law: (1) the Petition violates the unfunded-mandate prohibition in Article 19,
5 Section 6 of the Nevada Constitution because it will require the expenditure of state
6 money to fund the Commission but does not provide for raising the necessary revenue,
7 and (2) the Petition’s description of effect is legally deficient under NRS 295.009(1)(b)
8 because it fails to explain that the initiative will require the expenditure of state
9 funds.

10 The Court should therefore enjoin the Nevada Secretary of State (the
11 “Secretary”) from taking any further action on the Petition.

12 **BACKGROUND**

13 On November 14, 2023, Sondra Cosgrove, on behalf of the Fair Maps Nevada
14 PAC, filed the Petition with the Secretary. The Petition seeks to amend Article 4,
15 Section 5 of the Nevada Constitution to require that redistricting be performed by a
16 commission rather than by the Legislature.

17 The Petition proposes the creation of a new, seven-member state body—the
18 “Independent Redistricting Commission”—within the legislative branch, tasked with
19 drawing districts for state legislators and congressional representatives. Ex. 1 at 2.
20 The Commission would be required to ensure that districts comply with the U.S.
21 Constitution and applicable federal law, have an approximately equal number of
22 inhabitants, are geographically contiguous, are not drawn with “the intent or result
23 of denying or abridging the equal opportunity of racial or language minorities to
24 participate in the political process or elect representatives of their choice,” do not
25 “unduly advantage or disadvantage a political party,” reflect county, city, and
26 township boundaries, minimize the division of communities of interest, are
27 reasonably compact, and consider the number of politically competitive districts. *Id.*
28

1 at 2. The Commission's meetings would be open to the public, and the Commission
2 must ensure that the public has opportunities to view, present testimony, and
3 participate in Commission hearings. Commission materials would be public records.
4 *Id.* at 1–2. The Petition does not provide any new revenue to fund any of these
5 mandates. *See id.*

6 The Petition includes the following description of effect:

7 This measure will amend the Nevada Constitution to establish a
8 redistricting commission to map electoral districts for the Nevada
Senate, Assembly, and U.S. House of Representatives.

9 The Commission will have seven members, four who will be
10 appointed by the leadership of the Legislature, and three who are
11 unaffiliated with the two largest political parties who will be appointed
12 by the other four commissioners. Commissioners may not be partisan
candidates, lobbyists, or certain relatives of such individuals.
Commission meetings shall be open to the public which shall have
opportunities to participate in hearings.

13 The Commission will ensure, to the extent possible, that the
14 districts comply with the U.S. Constitution, have an approximately
15 equal number of inhabitants, are geographically compact and
16 contiguous, provide equal opportunities for racial and language
17 minorities to participate in the political process, respect areas with
recognized similarities of interests, including racial, ethnic, economic,
social, cultural, geographic, or historic identities, do not unduly
advantage or disadvantage a political party, and are politically
competitive.

18 This amendment will require redistricting following each federal census.

19 Ex. 1 at 3.

20 The substance of the Petition is nearly identical to a petition that was
21 previously circulated in 2019. *See Exhibit 2*, a true and accurate copy of Initiative
22 Petition C-02-2019; *see also Jackson v. Fair Maps Nevada PAC*, No. 19-OC-002909
23 1B (1st Jud. Dist. Ct. Nev., Carson City Jan. 2, 2020) (*Exhibit 3*), *aff'd*, No. 80563
24 (Nev. July 24, 2020) (*Exhibit 4*).

25 In reviewing a challenge to the 2019 petition's description of effect, the First
26 Judicial District Court concluded that the description was "inadequate in that it does
27 not provide potential signatories with enough information about the cost
28

1 consequences of the Petition—specifically, that it will result in the expenditure of
2 state funds.” Ex. 3 at 4. The Court therefore rewrote the description of effect to specify
3 that the 2019 petition “will result in the expenditure of state funds to fund the
4 Commission.” *Id.* at 5. The Court also concluded that the description did not
5 “adequately inform voters that the Petition would result in redistricting in 2023 after
6 the Legislature has already drawn electoral districts after the 2020 census” and
7 rewrote the description to expressly state that the 2019 petition would lead to new
8 maps “which could replace maps drawn by the Legislature after the 2020 census.” *Id.*
9 at 4-5. The 2019 petition was circulated to voters with that revised description but
10 failed to attract sufficient signatures for inclusion on the ballot.

11 LEGAL STANDARD

12 Article 19, Section 6’s prohibition on initiatives that mandate unfunded
13 expenditures is a “threshold content restriction” and voids any initiative that does
14 not comply. *Educ. Freedom PAC v. Reid*, 138 Nev., Adv. Op. 47, 512 P.3d 296, 303
15 (2022). Nevada law also allows challenges to an initiative petition where the
16 description of effect is deficient, see NRS 295.061. Such challenges are “properly
17 evaluated at the preelection stage.” *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 890
18 & n.38, 141 P.3d 1224, 1233 & n.38 (2006) (per curiam) (quoting *Rogers v. Heller*, 117
19 Nev.169, 173, 18 P.3d 1034, 1036 (2001) (per curiam)).

20 ARGUMENT

21 The Petition suffers from two fatal flaws. It violates the constitutional bar on
22 unfunded mandates because it would require the expenditure of government funds,
23 but it does not provide any revenue source to cover these new costs. Its description of
24 effect is also inadequate because it does not mention that the Petition would require
25 the expenditure of state funds.

1 **I. The Petition unlawfully mandates an unfunded expenditure.**

2 Under Article 19, Section 6 of the Nevada Constitution, an initiative is
3 prohibited if it “makes an appropriation or otherwise requires the expenditure of
4 money, unless [it] also imposes a sufficient tax, not prohibited by the Constitution, or
5 otherwise constitutionally provides for raising the necessary revenue.” Accordingly,
6 when an initiative “creat[es] a new requirement for the appropriation of state funding
7 that does not now exist and provides no discretion to the Legislature about whether
8 to appropriate or expend the money” but does not provide for the necessary revenue,
9 it does not comply with Article 19, Section 6 and is thus void. *Educ. Freedom PAC v.*
10 *Reid*, 138 Nev., Adv. Op. 47, 512 P.3d at 303–04. “[A]n initiative makes an
11 appropriation or expenditure when . . . the budgeting official must approve the
12 appropriation or expenditure, regardless of any other financial considerations.”
13 *Herbst Gaming*, 122 Nev. at 890, 141 P.3d at 1233.

14 The Petition makes an appropriation under this standard because it requires
15 the creation of a new state body—a redistricting commission—which will necessarily
16 incur expenses, but the Petition fails to provide the revenue required to cover those
17 expenses.

18 There is no question that the Petition would require the expenditure of state
19 funds. The First Judicial District Court held in 2019 that the materially identical
20 2019 petition “will result in the expenditure of state funds,” and ordered the
21 description of effect amended to expressly say so. Ex. 3 at 4.¹ And redistricting
22 commissions in other states have required millions of dollars of state funding to carry
23 out their mandates. In California, the Citizens Redistricting Commission incurred
24 more than \$10 million in costs before the adoption of the final set of maps from July
25

26 ¹ The challenger in the 2019 case challenged only the description of effect, so
27 the Court did not consider the implications of this holding under Article 19, Section
28 6. *See id.*

1 1, 2020 through December 27, 2021.² In Arizona, appropriations for the Independent
2 Redistricting Commission totaled \$12,716,227 for 2011-2017 and \$8,400,000 for 2021-
3 2022.³ And in Ohio, the Office of Budget and Management estimated that a
4 constitutional amendment establishing a redistricting commission and requiring new
5 districts to be redrawn would cost between \$11 million and \$15.2 million over an
6 eight-year period.⁴ Redistricting expenditures under the Ohio Redistricting
7 Commission amounted to \$625,000 from 2020 through October 2021, for
8 “redistricting mapping software applications, consulting and research services,
9 mileage reimbursements, and other such expenses related to the process of
10 redistricting.”⁵

11 There is no reason to conclude that the funding requirements for the
12 redistricting commission the Petition proposes for Nevada would be any different.
13 The Petition requires that the Commission draw districts that comply with the U.S.
14 Constitution and federal law, are approximately equal in population, are
15 geographically contiguous, do not deny or abridge the equal opportunity of racial or
16 language minorities, do not favor any political party, reflect city, county, and
17 township boundaries, keep communities of interest together, are reasonably compact,
18

19 ² Letter from Antonio Le Mons, Commissioner on California Citizens
20 Redistricting Commission, to Hans Hemann, Joint Legislative Budget Committee,
21 and Charles LaSalle, Department of Finance (June 30, 2023),
[https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2023/07/wd-2023-06-30-
LegislatureExpReport.pdf](https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2023/07/wd-2023-06-30-LegislatureExpReport.pdf).

22 ³ Independent Redistricting Commission, FY 2023 Appropriations Report,
23 <https://www.azjlb.gov/23AR/irc.pdf>.

24 ⁴ Letter from Timothy Keen, Director of Ohio Office of Budget & Management,
25 to Jon Husted, Ohio Secretary of State (Oct. 3,
2012), <https://www.ohiosos.gov/globalassets/ballotboard/2012/2-fiscalanalysis.pdf>.

26 ⁵ Fiscal Note & Local Impact Statement for S.B. 258 (Nov. 3,
27 2023), <https://www.legislature.ohio.gov/download?key=17742&format=pdf>.

28

1 and consider the number of politically competitive districts. Ex. 1 at 2. Complying
2 with these requirements will require significant expert and technological support,
3 none of which are provided for in the Petition. Confirming this conclusion, the Nevada
4 legislative committees that have previously undertaken reapportionment and
5 redistricting have done so with the assistance of staff, including research staff,
6 legislative counsel, redistricting and GIS specialists, and special masters, all of which
7 carry significant expenses.⁶

8 Nor will the expenses of the Commission be limited to the redistricting itself.
9 Under the Petition, the Commission must hold meetings “open to the public,” with an
10 opportunity for public viewing, testimony, and participation, provide public notice of
11 proposed plans and an opportunity for public review and comment, and make its
12 records available as public records. Ex. 1 at 1. Meeting these requirements costs
13 money, too, but the Petition fails to raise any revenue to fund it.

14 The Petition therefore “creat[es] a new requirement for the appropriation of
15 state funding that does not now exist,” *Educ. Freedom PAC*, 138 Nev., Adv. Op. 47,
16 512 P.3d at 304, and leaves “budgeting officials no discretion in appropriating or
17 expending the money mandated by the initiative—the budgeting official must
18 approve the appropriation or expenditure” to comply with its provisions. *Herbst*
19 *Gaming*, 122 Nev. at 890, 141 P.3d at 1233. Because the Petition requires an
20

21 ⁶ See, e.g., Nevada Legislature Committee to Conduct an Interim Study of the
22 Requirements for Reapportionment and Redistricting in the State of Nevada (Aug.
23 27, 2020), <https://www.leg.state.nv.us/App/InterimCommittee/REL/Document/16591>;
24 Committee to Conduct an Investigation into Matters Relating to Reapportionment
25 and Redistricting in Nevada, [https://www.leg.state.nv.us/App/InterimCommittee/REL/Interim2021/Committee/19
09/Staff](https://www.leg.state.nv.us/App/InterimCommittee/REL/Interim2021/Committee/1909/Staff); Nevada Legislature, Summary Minutes of the Public Hearing by Special
26 Masters to Receive Testimony Concerning Redistricting of Legislative and
27 Congressional Districts, <https://www.leg.state.nv.us/App/InterimCommittee/REL/Document/14769>.

1 appropriation and expenditure but does not “provide[] for raising the necessary
2 revenue” as Article 19, Section 6 requires, it is void ab initio for unlawfully mandating
3 an unfunded expenditure. *Rogers*, 117 Nev. at 173, 18 P.3d at 1036.

4 **II. The Petition’s description of effect’s omission of critical information**
5 **renders it legally insufficient.**

6 The Petition also includes an unlawfully deficient description of its effects.
7 Under NRS 295.009(1)(b), initiative petitions must “set forth, in not more than 200
8 words, a description of the effect of the initiative or referendum if the initiative or
9 referendum is approved by the voters.” The description of effect should “prevent voter
10 confusion and promote informed decisions.” *Nevadans for Nev. v. Beers*, 122 Nev. 930,
11 939, 142 P.3d 339, 345 (2006) (per curiam) (quoting *Campbell v. Buckley*, 203 F.3d
12 738, 746 (10th Cir. 2000)). To achieve this end, “a description of effect must identify
13 what the law proposes and how it intends to achieve that proposal.” *Educ. Initiative*
14 *PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 42, 293 P.3d 874, 879 (2013). In
15 doing so, the description “must be straightforward, succinct, and nonargumentative,
16 and it must not be deceptive or misleading.” *Id.* (cleaned up) (quoting *Las Vegas*
17 *Taxpayer Accountability Comm. v. City Council*, 125 Nev. 165, 183, 208 P.3d 429, 441
18 (2009)). A description must also sufficiently “explain the[] ramifications of the
19 proposed amendment” to allow voters to make an informed decision. *Nev. Judges*
20 *Ass’n v. Lau*, 112 Nev. 51, 59, 910 P.2d 898, 903 (1996). A description does not need
21 to describe every possible effect, but it must accurately describe the main
22 consequences of the initiative. See, e.g., *Las Vegas Taxpayer Accountability Comm.*,
23 125 Nev. at 184, 208 P.3d at 441 (finding description of effect materially misleading
24 where it “materially fails to accurately identify the consequences of the referendum’s
25 passage”). This includes identifying “the need for or nature of the revenue source” to
26 fund the proposed initiative. *Educ. Freedom PAC*, 138 Nev., Adv. Op. 47, 512 P.3d at
27 304.
28

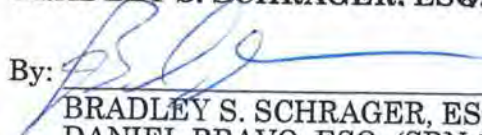
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AFFIRMATION

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

DATED this 6th day of December, 2023.

BRADLEY S. SCHRAGER, ESQ. (SBN 10217)

By:  _____
BRADLEY S. SCHRAGER, ESQ. (SBN 10217)

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Attorneys for Plaintiff

Exhibit 1

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Exhibit 1

State of Nevada
Secretary of State
Francisco V. Aguilar



Notice of Intent
Statewide Initiative or
Referendum Petition

NRS 295.009 and 295.015

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

Sondra Cosgrove

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

1. Sondra Cosgrove
2. Richard MacLean
3. Edward Gonzalez Jr.

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

Fair Maps Nevada

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 Sondra Cosgrove
Signature of Petition Filer

11/14/2023
Date

State of Nevada - Initiative Petition – Constitutional Amendment

EXPLANATION: Matter in *bolded italics* is new language to be added to the Nevada Constitution by this Amendment. Matter in strikethrough is existing language in the Nevada Constitution to be deleted by this Amendment.

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

Section 1: Article 4, Section 5 of the Nevada Constitution is hereby amended to read as follows:

Section 5. Number of Senators and members of Assembly; apportionment. Senators and members of the Assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of Senators shall not be less than one-third nor more than one-half of that of the members of the Assembly.

It shall be the mandatory duty of the Legislature at its first session after the taking of the decennial census of the United States in the year 1950, and after each subsequent decennial census, to fix by law the number of Senators and Assemblymen, and apportion them among the several counties of the State, or among legislative districts which may be established by law, according to the number of inhabitants in them, respectively.

Section 2: Article 4 of the Nevada Constitution is hereby amended by adding thereto new sections to be designated as Sections 5A, 5B and 5C, to read as follows:

Section 5A. Apportionment; Creation of Independent Redistricting Commission.

1. *There is created within the legislative branch of state government the Independent Redistricting Commission. It shall be the duty of the Commission after each decennial census of the United States, to apportion the number of Senators and Assemblymen among legislative districts established by the Commission and to apportion the number of representatives in the United States House of Representatives among districts established by the Commission.*
2. *The Commission shall be composed of seven members who are registered and eligible to vote in Nevada, and who satisfy the qualification standards in subsection 3. The Senate Majority Leader, Senate Minority Leader, Speaker of the Assembly, and Assembly Minority Leader shall each appoint one Commissioner. The four Commissioners appointed in this manner shall appoint three additional Commissioners, each of whom, for at least four years immediately preceding their appointment, has not been registered or affiliated with the largest political party or the second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year, and none of whom, if registered or affiliated with a political party, is affiliated or registered with the same political party as another Commissioner.*
3. *Within four years preceding appointment and during their term, no Commissioner may be a registered lobbyist; a candidate for a federal, state, or partisan local office; an elected official to a federal, state, or partisan local office; an officer or member of the governing body of a national, state, or local political party; a paid consultant or employee of a federal, state, or partisan local elected official or candidate, or of a political action committee, or of a committee sponsored by a political party, or of a committee that seeks to influence elections to federal, state, or partisan local offices; an employee of the Legislature; an employee of the State of Nevada, except for employees in the judicial branch, the armed forces, or a state institution of higher education; or related within the third degree of consanguinity or affinity to any individual disqualified under this subsection.*
4. *The term of office of each Commissioner shall expire once the Commission has completed its obligations for a census cycle but not before any judicial review of the redistricting plan is complete and shall expire no later than the release of the following decennial census of the United States.*
5. *All meetings of the Commission shall be open to the public. The Commission shall ensure that the public has opportunities to view, present testimony, and participate in hearings before the Commission. All Commission materials shall be public records.*

6. The Commission shall adopt rules to govern its administration and operation.
7. The powers granted to the Commission are legislative functions not subject to the control or approval of the Legislature and are exclusively reserved to the Commission.

Section 5B. Criteria for Determination of Districts; Approval of Final Plans.

1. In adopting a redistricting plan, the Independent Redistricting Commission shall use the following criteria, in the order listed, to draw districts: Ensure that districts comply with the United States Constitution and applicable federal law; Ensure that districts have an approximately equal number of inhabitants; Ensure that districts are geographically contiguous; Ensure that districts are not drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or elect representatives of their choice, whether by themselves or voting in concert with other persons; Ensure that districts, when considered on a statewide basis, do not unduly advantage or disadvantage a political party; Ensure that districts reflect, to the extent possible, county, city, and township boundaries; Minimize, to the extent practicable, the division of communities of interest, meaning an area with recognized similarities of interests, including but not limited to racial, ethnic, economic, social, cultural, geographic, or historic identities, but not including common relationships with political parties or political candidates; Ensure that districts are reasonably compact; and to the extent practicable, after complying with the requirements above, consider the number of politically competitive districts, measured by creating a reasonable potential for the party affiliation of the district's representative to change at least once between federal decennial censuses.
2. Not later than 180 days from the release of the decennial census of the United States, the Commission shall approve a redistricting plan for the Nevada State Senate, the Nevada State Assembly, and Nevada's Congressional Districts, after providing public notice of each proposed final plan and allowing sufficient time for public review and comment. A final plan may be approved by the Commission only upon at least five affirmative votes, including at least one Commissioner registered with the largest political party, one Commissioner registered with the second largest political party, and one Commissioner not registered or affiliated with the largest or second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year.

Section 5C. Severability.

Should any part of this Amendment be declared invalid, or the application thereof to any person, thing, or circumstance be held invalid, such invalidity shall not affect the remaining provisions or application of this Amendment which can be given effect without the invalid provision or application, and to this end the provisions of this Amendment are declared to be severable. This Section shall be construed broadly to preserve and effectuate the purpose of this Amendment.

[The remainder of this page is blank.]

DESCRIPTION OF EFFECT

This measure will amend the Nevada Constitution to establish a redistricting commission to map electoral districts for the Nevada Senate, Assembly, and U.S. House of Representatives.

The Commission will have seven members, four who will be appointed by the leadership of the Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the public which shall have opportunities to participate in hearings.

The Commission will ensure, to the extent possible, that the districts comply with the U.S. Constitution, have an approximately equal number of inhabitants, are geographically compact and contiguous, provide equal opportunities for racial and language minorities to participate in the political process, respect areas with recognized similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not unduly advantage or disadvantage a political party, and are politically competitive.

This amendment will require redistricting following each federal census.

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

	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	This Space For Office Use Only
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The Commission will have seven members, four who will be appointed by the leadership of the Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the public which shall have opportunities to participate in hearings.

The Commission will ensure, to the extent possible, that the districts comply with the U.S. Constitution, have an approximately equal number of inhabitants, are geographically compact and contiguous, provide equal opportunities for racial and language minorities to participate in the political process, respect areas with recognized similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not unduly advantage or disadvantage a political party, and are politically competitive.

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	YOUR SIGNATURE _____ DATE <u> </u> / <u> </u> / <u> </u>	CITY _____ COUNTY _____	

Place Affidavit on last page of document.

THE FOLLOWING AFFIDAVIT MUST BE COMPLETED AND SIGNED:

Exhibit 2

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Exhibit 2

State of Nevada - Initiative Petition – Constitutional Amendment

C-02-2019

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EXPLANATION: Matter in *bolded italics* is new language to be added to the Nevada Constitution by this Amendment. Matter in strikethrough is existing language in the Nevada Constitution to be deleted by this Amendment.

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

Section 1: Article 4, Section 5 of the Nevada Constitution is hereby amended to read as follows:

Section 5. Number of Senators and members of Assembly; apportionment. Senators and members of the Assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of Senators shall not be less than one-third nor more than one-half of that of the members of the Assembly.

It shall be the mandatory duty of the Legislature at its first session after the taking of the decennial census of the United States in the year 1950, and after each subsequent decennial census, to fix by law the number of Senators and Assemblymen, and apportion them among the several counties of the State, or among legislative districts which may be established by law, according to the number of inhabitants in them, respectively.

Section 2: Article 4 of the Nevada Constitution is hereby amended by adding thereto new sections to be designated as Sections 5A, 5B and 5C, to read as follows:

Section 5A. Apportionment; Creation of Independent Redistricting Commission.

1. *There is created within the legislative branch of state government the Independent Redistricting Commission. It shall be the duty of the Commission, in the year 2023, and after each subsequent decennial census of the United States, to apportion the number of Senators and Assemblymen among legislative districts established by the Commission and to apportion the number of representatives in the United States House of Representatives among districts established by the Commission.*
2. *The Commission shall be composed of seven members who are registered and eligible to vote in Nevada, and who satisfy the qualification standards in subsection 3. The Senate Majority Leader, Senate Minority Leader, Speaker of the Assembly, and Assembly Minority Leader shall each appoint one Commissioner. The four Commissioners appointed in this manner shall appoint three additional Commissioners, each of whom, for at least four years immediately preceding their appointment, has not been registered or affiliated with the largest political party or the second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year, and none of whom, if registered or affiliated with a political party, is affiliated or registered with the same political party as another Commissioner.*
3. *Within four years preceding appointment and during their term, no Commissioner may be a registered lobbyist; a candidate for a federal, state, or partisan local office; an elected official to a federal, state, or partisan local office; an officer or member of the governing body of a national, state, or local political party; a paid consultant or employee of a federal, state, or partisan local elected official or candidate, or of a political action committee, or of a committee sponsored by a political party, or of a committee that seeks to influence elections to federal, state, or partisan local offices; an employee of the Legislature; an employee of the State of Nevada, except for employees in the judicial branch, the armed forces, or a state institution of higher education; or related within the third degree of consanguinity or affinity to any individual disqualified under this subsection.*
4. *The term of office of each Commissioner shall expire once the Commission has completed its obligations for a census cycle but not before any judicial review of the redistricting plan is complete and shall expire no later than the release of the following decennial census of the United States.*

5. All meetings of the Commission shall be open to the public. The Commission shall ensure that the public has opportunities to view, present testimony, and participate in hearings before the Commission. All Commission materials shall be public records.
6. The Commission shall adopt rules to govern its administration and operation.
7. The powers granted to the Commission are legislative functions not subject to the control or approval of the Legislature and are exclusively reserved to the Commission.

Section 5B. Criteria for Determination of Districts; Approval of Final Plans.

1. In adopting a redistricting plan, the Independent Redistricting Commission shall use the following criteria, in the order listed, to draw districts: Ensure that districts comply with the United States Constitution and applicable federal law; Ensure that districts have an approximately equal number of inhabitants; Ensure that districts are geographically contiguous; Ensure that districts are not drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or elect representatives of their choice, whether by themselves or voting in concert with other persons; Ensure that districts, when considered on a statewide basis, do not unduly advantage or disadvantage a political party; Ensure that districts reflect, to the extent possible, county, city, and township boundaries; Minimize, to the extent practicable, the division of communities of interest, meaning an area with recognized similarities of interests, including but not limited to racial, ethnic, economic, social, cultural, geographic, or historic identities, but not including common relationships with political parties or political candidates; Ensure that districts are reasonably compact; and to the extent practicable, after complying with the requirements above, consider the number of politically competitive districts, measured by creating a reasonable potential for the party affiliation of the district's representative to change at least once between federal decennial censuses.
2. Not later than July 1, 2023, and thereafter not later than 180 days from the release of the decennial census of the United States, the Commission shall approve a redistricting plan for the Nevada State Senate, the Nevada State Assembly, and Nevada's Congressional Districts, after providing public notice of each proposed final plan and allowing sufficient time for public review and comment. A final plan may be approved by the Commission only upon at least five affirmative votes, including at least one Commissioner registered with the largest political party, one Commissioner registered with the second largest political party, and one Commissioner not registered or affiliated with the largest or second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year.

Section 5C. Severability.

Should any part of this Amendment be declared invalid, or the application thereof to any person, thing, or circumstance be held invalid, such invalidity shall not affect the remaining provisions or application of this Amendment which can be given effect without the invalid provision or application, and to this end the provisions of this Amendment are declared to be severable. This Section shall be construed broadly to preserve and effectuate the purpose of this Amendment.

[The remainder of this page is blank.]

DESCRIPTION OF EFFECT

This measure will amend the Nevada Constitution to establish an Independent Redistricting Commission to oversee the mapping of fair and competitive electoral districts for the Nevada Senate, Nevada Assembly, and U.S. House of Representatives.

The Commission will consist of seven Nevada voters, four who will be appointed by the leadership of the Nevada Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. All meetings of the Commission shall be open to the public who shall have opportunities to participate in hearings before the Commission.

The Commission will ensure, to the extent possible, that the electoral districts comply with the United States Constitution, have an approximately equal number of inhabitants, are geographically compact and contiguous, provide equal opportunities for racial and language minorities to participate in the political process, respect areas with recognized similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not unduly advantage or disadvantage a political party, and are politically competitive.

This amendment will require redistricting by the Commission beginning in 2023 and thereafter following each federal census.

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	
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The Commission will consist of seven Nevada voters, four who will be appointed by the leadership of the Nevada Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. All meetings of the Commission shall be open to the public who shall have opportunities to participate in hearings before the Commission.

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This amendment will require redistricting by the Commission beginning in 2023 and thereafter following each federal census.

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 Petition District _____

(Only registered voters of this county may sign below)
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	YOUR SIGNATURE	DATE / /	CITY COUNTY
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	YOUR SIGNATURE	DATE / /	CITY COUNTY

Place Affidavit on last page of document.

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

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Exhibit 3

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 3

1 Adam Hosmer-Henner, Esq. (NSBN 12779)
Lucas Foletta, Esq. (NSBN 12154)
2 McDONALD CARANO
100 West Liberty Street, 10th Floor
3 Reno, NV 89501
(775) 788-2000
4 ahosmerhenner@mcdonaldcarano.com
lfoletta@mcdonaldcarano.com

5 *Attorneys for Defendant*
6 *Fair Maps Nevada PAC*

REC'D & FILED
2020 JAN -2 PM 12: 15

AUBREY ROWLATT
CLERK
BY 
DEPUTY

7 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR CARSON CITY**

9 * * *

10 REV. LEONARD JACKSON,
11 Plaintiff,
12 vs.
13 FAIR MAPS NEVADA PAC, and
14 BARBARA CEGAVSKE, in her official
15 capacity as Nevada Secretary of State,
16 Defendants.

Case No. 19 OC 00209 1B
Dept. No. I

[PROPOSED] ORDER

17 **ORDER**

18 This matter having come before this Court pursuant to Plaintiff Reverend Leonard
19 Jackson's Complaint for Declaratory Relief ("Complaint") and Plaintiff's Opening Brief in
20 Support of Complaint for Declaratory and Injunctive Relief ("Opening Brief"), and having
21 considered Defendant Fair Maps Nevada PAC's ("Fair Maps") Answer and Answering Brief in
22 Response to Plaintiff's Opening Brief in Support of Complaint for Declaratory and Injunctive
23 Relief ("Answering Brief") and Plaintiff's Reply Brief in Support of Complaint for Declaratory
24 Relief ("Reply Brief") as well as the arguments of counsel at the hearing held December 23,
25 2019, the Court finds as follows:

26 //
27 //
28 //

1 **PROCEDURAL BACKGROUND**

2 Fair Maps filed Initiative Petition #C-02-2019 (“Petition”) on November 4, 2019 to
3 amend the Nevada Constitution by adding a new section to the Nevada Constitution to establish
4 a redistricting commission to map electoral districts for members of the Nevada Senate, Nevada
5 Assembly, and Nevada’s delegation to the U.S. House of Representatives. The Petition includes
6 the following description of effect:

7 This measure will amend the Nevada Constitution to establish an
8 Independent Redistricting Commission to oversee the mapping of fair and
9 competitive electoral districts for the Nevada Senate, Nevada Assembly, and U.S.
10 House of Representatives.

11 The Commission will consist of seven Nevada voters, four who will be
12 appointed by the leadership of the Nevada Legislature, and three who are
13 unaffiliated with the two largest political parties who will be appointed by the
14 other four commissioners. Commissioners may not be partisan candidates,
15 lobbyists, or certain relatives of such individuals. All meetings of the Commission
16 shall be open to the public who shall have opportunities to participate in hearings
17 before the Commission.

18 The Commission will ensure, to the extent possible, that the electoral
19 districts comply with the United States Constitution, have an approximately equal
20 number of inhabitants, are geographically compact and contiguous, provide equal
21 opportunities for racial and language minorities to participate in the political
22 process, respect areas with recognized similarities of interests, including racial,
23 ethnic, economic, social, cultural, geographic, or historic identities, do not unduly
24 advantage or disadvantage a political party, and are politically competitive.

25 This amendment will require redistricting by the Commission beginning in
26 2023 and thereafter following each federal census.

27 Plaintiff filed his Complaint and the Opening Brief on November 26, 2019, in which he
28 argues that the Petition’s description of effect fails to comply with NRS 295.009(1)(b). More
specifically, he contends that description of the commission as independent and the description
of effect’s statement that the commission will oversee “the mapping of fair and competitive
electoral districts,” are materially misleading statements. Compl. ¶¶ 15 & 23. He also asserts
that the description of effect is deceptive and misleading because it fails to inform voters of a
specific practical effect of passage of the Petition—that the redistricting commission will “undo”
electoral maps generated by the Legislature in 2021 “thus potentially doubling the resources that
would otherwise be spent on redistricting following the 2020 census.” *Id.* at ¶¶ 30. Plaintiff’s
Complaint is limited to his challenge to the description of effect.

1 Fair Maps contends that the use of the term independent and the characterization of the
2 commission's objective of creating fair and competitive electoral districts is neither deceptive
3 nor misleading and amount to attacks on the policy reflected in the Petition and not the
4 description of effect. Ans. Br. 6-8. Fair Maps also contends that Plaintiff's claim that there will
5 be additional redistricting costs as a result of Petition is speculative and hypothetical and
6 therefore need not be addressed in the description of effect. *Id.* at 8-10.

7 **LEGAL STANDARDS**

8 Article 19, Section 2 of the Nevada Constitution enshrines the people's right to amend
9 the Nevada Constitution by initiative petition. Specifically it states that "the people reserve to
10 themselves the power to propose, by initiative petition, . . . amendments to this Constitution."
11 Nev. Const. art. 19, § 2(1). The Nevada Constitution further provides that the Legislature "may
12 provide by law for procedures to *facilitate* the operation thereof." *Id.* art. 19, § 5 (emphasis
13 added). In interpreting such laws, the courts "must make every effort to sustain and preserve the
14 people's constitutional right to amend their constitution through the initiative process."
15 *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 912, 141 P.3d 1235, 1247
16 (2006).

17 NRS 295.009(1)(b) provides that a petition must "[s]et forth, in not more than 200
18 words, a description of the effect of the initiative . . . if the initiative . . . is approved by the
19 voters." NRS 295.009(1)(b). The Nevada Supreme Court has noted that "[a] description of effect
20 serves a limited purpose to facilitate the initiative process," and that a description of effect
21 should be reviewed with an eye toward that limited purpose. *Educ. Initiative PAC v. Comm. to*
22 *Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013). Thus, while a description of
23 effect need not "delineate every effect that an initiative will have," it must be "a straightforward,
24 succinct, and nonargumentative statement of what the initiative will accomplish and how it will
25 achieve those goals." *Id.* at 38, 293 P.3d at 876. A description of effect cannot "be deceptive or
26 misleading." *Id.* at 42, 293 P.3d at 879.

27 In reviewing a description of effect, "it is inappropriate to parse the meanings of the
28 words and phrases used in a description of effect" as closely as a reviewing court would a

1 statutory text. *Id.* at 48, 293 P.3d at 883. Such an approach “comes at too high a price in that it
2 carries the risk of depriving the people of Nevada of their constitutional right to propose laws by
3 initiative.” *Id.* Thus, a reviewing court “must take a holistic approach” to the required analysis.
4 *Id.* “The opponent of a ballot initiative bears the burden of showing that the initiative’s
5 description of effect fails to satisfy this standard.” *Id.* at 42, 293 P.3d at 879.

6 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

7 In this case, the description of effect for the Petition does not meet the requirements of
8 NRS 295.009(1)(b). The description of effect could be argumentative or confusing or
9 misleading to voters as currently written. The description of effect does not adequately explain
10 to voters what is meant by the term “independent” or the phrase “fair and competitive.” The
11 Court further finds that the description of effect is inadequate in that it does not provide potential
12 signatories with enough information about the cost consequences of the Petition—specifically,
13 that it will result in the expenditure of state funds. *See, e.g., Nev. Judges Ass’n v. Lau*, 112 Nev.
14 51,59 (1996). The Petition also does not adequately inform voters that the Petition would result
15 in redistricting in 2023 after the Legislature has already drawn electoral districts after the 2020
16 Census.

17 The Court finds that the above-referenced deficiencies may be cured through the revised
18 description of effect provided herein. NRS 295.061(3) provides that “[i]f a description of the
19 effect of an initiative or referendum required pursuant to NRS 295.009 is challenged
20 successfully . . . and such description is amended in compliance with the order of the court, the
21 amended description may not be challenged.” NRS 295.061(3). Thus, the Court, in consultation
22 with the parties, identifies a new description of effect that satisfies the legal standard required by
23 NRS 295.061(3). This revised description of effect states:

24
25 “This measure will amend the Nevada Constitution to establish a redistricting
26 commission to map electoral districts for the Nevada Senate, Assembly, and U.S. House of
Representatives.

27 The Commission will have seven members, four who will be appointed by the leadership
28 of the Legislature, and three who are unaffiliated with the two largest political parties who will
be appointed by the other four commissioners. Commissioners may not be partisan candidates,

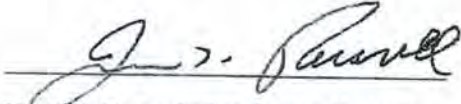
1 lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the
2 public who shall have opportunities to participate in hearings.

3 The Commission will ensure, to the extent possible, that the districts comply with the
4 U.S. Constitution, have an approximately equal number of inhabitants, are geographically
5 compact and contiguous, provide equal opportunities for racial and language minorities to
6 participate in the political process, respect areas with recognized similarities of interests,
7 including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not
8 unduly advantage or disadvantage a political party, and are politically competitive.

9 This amendment requires redistricting after each federal census, beginning in 2023,
10 which could replace maps drawn by the Legislature after the 2020 census, and will result in the
11 expenditure of state funds to fund the Commission.”

12 **IT IS THEREFORE ORDERED** and declared that the description of effect filed with
13 the Secretary of State on November 4, 2019 failed to satisfy the requirements of NRS
14 295.009(1)(b). Thus, any signatures collected on the Petition containing the description of effect
15 are invalid. However, Defendant Fair Maps may re-file an amended petition with the revised
16 description of effect as set forth by this Order, which cures all deficiencies raised by Plaintiff
17 and identified by the Court. Upon re-filing, the description of effect will have been amended in
18 compliance with this Order and be accorded the finality set forth in NRS 295.061(3) and shall
19 not be subject to further challenge. NRS 295.061(3).

20 Dated this 2 day of ^{January} ~~December~~, ²⁰²⁰ ~~2019~~.

21 
22 District Court Judge James Russell

23 Respectfully submitted by:

24 MCDONALD CARANO LLP

25 By: /s/ Adam Hosmer-Henner
26 Adam Hosmer-Henner, Esq. (NSBN 12779)
27 Lucas Foletta, Esq. (NSBN 12154)
28 MCDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501
Attorneys for Defendant Fair Maps PAC

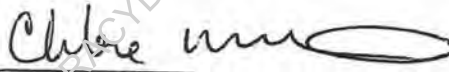
1 **CERTIFICATE OF MAILING**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District
3 Court, and that on this 2 day of January 2020 I deposited for mailing, postage paid, at
4 Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

5 Kevin K. Benson, Esq.
6 123 West Nye Lane, Suite 487
7 Carson City, NV 89706

8 Adam Hosmer-Henner, Esq.
9 Lucas Foletta, Esq.
10 McDONALD CARANO
11 100 West Liberty Street, 10th Floor
12 Reno, NV 89501

13 Gregory L. Zunino, Esq.
14 100 N Carson Street
15 Carson City, NV 89701

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Chloe McClintick, Esq.
Law Clerk, Dept. 1

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Exhibit 4

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Exhibit 4

IN THE SUPREME COURT OF THE STATE OF NEVADA

REV. LEONARD JACKSON,
Appellant/Cross-Respondent,
vs.
FAIR MAPS NEVADA PAC,
Respondent/Cross-Appellant,
and
BARBARA K. CEGAVSKE, IN HER
OFFICIAL CAPACITY AS NEVADA
SECRETARY OF STATE,
Respondent.

No. 80563

FILED

JUL 24 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal and cross-appeal from a district court order granting declaratory relief in a ballot initiative matter. First Judicial District Court, Carson City; James Todd Russell, Judge.

Reverend Leonard Jackson contends that the district court lacked "jurisdiction" to "rewrite" Fair Maps Nevada PAC's description of effect. We are not persuaded by Jackson's argument, as he has presented no authority that actually supports his position, *see Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (requiring parties to support arguments with salient authority), nor has he explained how construing NRS 295.061(3) in such a manner would further any public policy goals, *see Tam v. Eighth Judicial Dist. Court*, 131 Nev. 792, 800, 358 P.3d 234, 240 (2015) (recognizing that we construe statutes in accordance with "reason and public policy" (internal quotation marks omitted)).

Jackson next contends that Fair Maps' rewritten description of effect is still misleading. We disagree. While a description of effect must not be deceptive or misleading, *Educ. Initiative PAC v. Comm. to Protect*

Nev. Jobs, 129 Nev. 35, 42, 293 P.3d 874, 879 (2013), Jackson's fixation on the description's use of "could" instead of "will" requires an improperly "hyper-technical" analysis of the description, *id.* at 49, 293 P.3d at 883-84. We are likewise unpersuaded that the district court failed to make sufficient factual findings. The only shortcoming Jackson alleges pertains to an issue that appeared in the original description of effect but that is absent from the amended description. Accordingly, we affirm the district court's order insofar as Jackson challenges it.

On cross-appeal, Fair Maps argues that the district court erred in determining that its original description of effect was misleading. In light of our above-mentioned determinations, however, this issue is moot, and we therefore dismiss Fair Maps' cross-appeal. *Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) ("This court's duty is not to render advisory opinions . . ."). In so doing, we note that Fair Maps has not indicated that it would prefer to proceed with its original petition instead of its amended petition. In light of the foregoing, we

ORDER the judgment of the district court AFFIRMED.

Pickering, C.J.
Pickering

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Silver, J.
Silver

cc: Hon. James Todd Russell, District Judge
Benson Law LLC
Attorney General/Carson City
McDonald Carano LLP/Reno
Carson City Clerk

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EXHIBIT 2

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EXHIBIT 2

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WILLIAM SCOTT HOEN
K. PETERSON CLERK

BY _____ DEPUTY

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15 *Attorneys for Plaintiff*

16 **IN THE FIRST JUDICIAL DISTRICT COURT**
17 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

18 ERIC JENG, an individual,
19 Plaintiff,

20 vs.

21 FRANCISCO V. AGUILAR, in his official
22 capacity as NEVADA SECRETARY OF
23 STATE;
24 Defendant

Case No.: 230C0013718
Dept. No.: I

**PLAINTIFF'S MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF
CHALLENGING INITIATIVE
PETITION C-04-2023**

25 Plaintiff Eric Jeng, an individual registered to vote in Nevada, by and through
26 his attorneys of record, submits this Memorandum of Points and Authorities in
27 support of his Complaint for Declaratory and Injunctive Relief challenging Initiative
28 Petition C-04-2023 as follows:

INTRODUCTION

Initiative Petition C-04-2023 (the "Petition") seeks to amend Article 4, Section
5 of the Nevada Constitution to establish the "Independent Redistricting
Commission," require that redistricting be performed by a commission rather than

BRAVO SCHRAGER LLP

1 by the Legislature, and require the existing districts, which would otherwise be in
2 place until the next decennial census, be redrawn in 2027. See **Exhibit 1**, a true and
3 accurate copy of the Notice of Intent to Circulate Statewide Initiative or Referendum
4 Petition associated with the Petition.

5 The Petition is invalid because it violates two threshold requirements of
6 Nevada law: (1) the Petition violates the unfunded-mandate prohibition in Article 19,
7 Section 6 of the Nevada Constitution because it will require the expenditure of state
8 money to fund the Commission but does not providing for raising the necessary
9 revenue, and (2) the Petition's description of effect is legally deficient under NRS
10 295.009(1)(b) because it fails to explain that the initiative will require the
11 expenditure of state funds and will prematurely invalidate the existing legislative
12 districts.

13 The Court should therefore enjoin the Nevada Secretary of State (the
14 "Secretary") from taking any further action on the Petition.

15 **BACKGROUND**

16 On November 14, 2023, Sondra Cosgrove, on behalf of the Fair Maps Nevada
17 PAC, filed the Petition with the Secretary. The Petition seeks to amend Article 4,
18 Section 5 of the Nevada Constitution to require that redistricting be performed by a
19 commission rather than by the Legislature.

20 The Petition proposes the creation of a new, seven-member state body—the
21 "Independent Redistricting Commission"—within the legislative branch, tasked with
22 drawing districts for state legislators and congressional representatives. Ex. 1, at 1.
23 The Commission would be required to ensure that districts comply with the U.S.
24 Constitution and applicable federal law, have an approximately equal number of
25 inhabitants, are geographically contiguous, are not drawn with "the intent or result
26 of denying or abridging the equal opportunity of racial or language minorities to
27 participate in the political process or elect representatives of their choice," do not
28

1 “unduly advantage or disadvantage a political party,” reflect county, city, and
2 township boundaries, minimize the division of communities of interest, are
3 reasonably compact, and consider the number of politically competitive districts. *Id.*
4 at 2. The Commission’s meetings would be open to the public, and the Commission
5 must ensure that the public has opportunities to view, present testimony, and
6 participate in Commission hearings. Commission materials would be public records.
7 *Id.* at 1–2.

8 The Petition would also invalidate the current legislative and congressional
9 districts—which would otherwise be in force until 2032—after the 2026 elections, and
10 require a new redistricting plan in 2027. *Id.* at 2. The Petition does not provide any
11 new revenue to fund any of these mandates. *See id.*

12 The Petition includes the following description of effect:

13 This measure will amend the Nevada Constitution to establish
14 a redistricting commission to map electoral districts for the Nevada
Senate, Assembly, and U.S. House of Representatives.

15 The Commission will have seven members, four who will be
16 appointed by the leadership of the Legislature, and three who are
17 unaffiliated with the two largest political parties who will be
18 appointed by the other four commissioners. Commissioners may not
be partisan candidates, lobbyists, or certain relatives of such
individuals. Commission meetings shall be open to the public which
shall have opportunities to participate in hearings.

19 The Commission will ensure, to the extent possible, that the
20 districts comply with the U.S. Constitution, have an approximately
21 equal number of inhabitants, are geographically compact and
22 contiguous, provide equal opportunities for racial and language
23 minorities to participate in the political process, respect areas with
recognized similarities of interests, including racial, ethnic,
economic, social, cultural, geographic, or historic identities, do not
unduly advantage or disadvantage a political party, and are
politically competitive.

24 This amendment will require redistricting following the 2026
25 election and each federal census thereafter.

26 Ex. 1 at 3.
27
28

1 The substance of the Petition is nearly identical to a petition that was
2 previously circulated in 2019. See **Exhibit 2**, a true and accurate copy of Initiative
3 Petition C-02-2019; see also *Jackson v. Fair Maps Nevada PAC*, No. 19-OC-002909
4 1B (1st Jud. Dist. Ct. Nev., Carson City Jan. 2, 2020) (**Exhibit 3**), *aff'd*, No. 80563
5 (Nev. July 24, 2020) (**Exhibit 4**).

6 In reviewing a challenge to the 2019 petition's description of effect, the First
7 Judicial District Court concluded that the description was "inadequate in that it does
8 not provide potential signatories with enough information about the cost
9 consequences of the Petition—specifically, that it will result in the expenditure of
10 state funds." Ex. 3 at 4. The Court therefore rewrote the description of effect to specify
11 that the 2019 petition "will result in the expenditure of state funds to fund the
12 Commission." *Id.* at 5. The Court also concluded that the description did not
13 "adequately inform voters that the Petition would result in redistricting in 2023 after
14 the Legislature has already drawn electoral districts after the 2020 census" and
15 rewrote the description to expressly state that the 2019 petition would lead to new
16 maps "which could replace maps drawn by the Legislature after the 2020 census." *Id.*
17 at 4-5. The 2019 petition was circulated to voters with that revised description but
18 failed to attract sufficient signatures for inclusion on the ballot.

19 LEGAL STANDARD

20 Article 19, Section 6's prohibition on initiatives that mandate unfunded
21 expenditures is a "threshold content restriction" and voids any initiative that does
22 not comply. *Educ. Freedom PAC v. Reid*, 138 Nev., Adv. Op. 47, 512 P.3d 296, 303
23 (2022). Nevada law also allows challenges to an initiative petition where the
24 description of effect is deficient, see NRS 295.061, and where the petition embraces
25 more than one subject, see NRS 295.009(1)(a). Such challenges are "properly
26 evaluated at the preelection stage." *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 890
27
28

1 & n.38, 141 P.3d 1224, 1233 & n.38 (2006) (per curiam) (quoting *Rogers v. Heller*, 117
2 Nev.169, 173, 18 P.3d 1034, 1036 (2001) (per curiam)).

3 **ARGUMENT**

4 The Petition suffers from two fatal flaws. It violates the constitutional bar on
5 unfunded mandates because it would require the expenditure of government funds
6 but it does not provide any revenue source to cover these new costs. Its description of
7 effect is also inadequate because it does not mention that the Petition would require
8 the expenditure of state funds or that it would prematurely invalidate the existing
9 maps.

10 **I. The Petition unlawfully mandates an unfunded expenditure.**

11 Under Article 19, Section 6 of the Nevada Constitution, an initiative is
12 prohibited if it “makes an appropriation or otherwise requires the expenditure of
13 money, unless [it] also imposes a sufficient tax, not prohibited by the Constitution, or
14 otherwise constitutionally provides for raising the necessary revenue.” Accordingly,
15 when an initiative “creat[es] a new requirement for the appropriation of state funding
16 that does not now exist and provides no discretion to the Legislature about whether
17 to appropriate or expend the money” but does not provide for the necessary revenue,
18 it does not comply with Article 19, Section 6 and is thus void. *Educ. Freedom PAC v.*
19 *Reid*, 138 Nev., Adv. Op. 47, 512 P.3d at 303–04. “[A]n initiative makes an
20 appropriation or expenditure when . . . the budgeting official must approve the
21 appropriation or expenditure, regardless of any other financial considerations.”
22 *Herbst Gaming*, 122 Nev. at 890, 141 P.3d at 1233.

23 The Petition makes an appropriation under this standard because it requires
24 the creation of a new state body—the redistricting commission—which will
25 necessarily incur expenses, but the Petition fails to provide the revenue required to
26 cover those expenses.

1 There is no question that the Petition would require the expenditure of state
2 funds. The First Judicial District Court held in 2019 that the materially identical
3 2019 petition “will result in the expenditure of state funds,” and ordered the
4 description of effect amended to expressly say so. Ex. 3 at 4.¹ And redistricting
5 commissions in other states have required millions of dollars of state funding to carry
6 out their mandates. In California, the Citizens Redistricting Commission incurred
7 more than \$10 million in costs before the adoption of the final set of maps from July
8 1, 2020 through December 27, 2021.² In Arizona, appropriations for the Independent
9 Redistricting Commission totaled \$12,716,227 for 2011-2017 and \$8,400,000 for 2021-
10 2022.³ And in Ohio, the Office of Budget and Management estimated that a
11 constitutional amendment establishing a redistricting commission and requiring new
12 districts to be redrawn would cost between \$11 million and \$15.2 million over an
13 eight-year period.⁴ Redistricting expenditures under the Ohio Redistricting
14 Commission amounted to \$625,000 from 2020 through October 2021, for
15 “redistricting mapping software applications, consulting and research services,
16
17

18 ¹ The challenger in the 2019 case challenged only the description of effect, so
19 the Court did not consider the implications of this holding under Article 19, Section
20 6. *See id.*

21 ² Letter from Antonio Le Mons, Commissioner on California Citizens
22 Redistricting Commission, to Hans Hemann, Joint Legislative Budget Committee,
23 and Charles LaSalle, Department of Finance (June 30, 2023),
[https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2023/07/wd-2023-06-30-
LegislatureExpReport.pdf](https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2023/07/wd-2023-06-30-LegislatureExpReport.pdf).

24 ³ Independent Redistricting Commission, FY 2023 Appropriations Report,
25 <https://www.azjlb.com/23AR/irc.pdf>.

26 ⁴ Letter from Timothy Keen, Director of Ohio Office of Budget & Management,
27 to Jon Husted, Ohio Secretary of State (Oct. 3,
28 2012), <https://www.ohiosos.gov/globalassets/ballotboard/2012/2-fiscalanalysis.pdf>.

1 mileage reimbursements, and other such expenses related to the process of
2 redistricting.”⁵

3 There is no reason to conclude that the funding requirements for the
4 redistricting commission the Petition proposes for Nevada would be any different.
5 The Petition requires that the Commission draw districts that comply with the U.S.
6 Constitution and federal law, are approximately equal in population, are
7 geographically contiguous, do not deny or abridge the equal opportunity of racial or
8 language minorities, do not favor any political party, reflect city, county, and
9 township boundaries, keep communities of interest together, are reasonably compact,
10 and consider the number of politically competitive districts. Ex. 1 at 2. Complying
11 with these requirements will require significant expert and technological support,
12 none of which are provided for in the Petition. Confirming this conclusion, the Nevada
13 legislative committees that have previously undertaken reapportionment and
14 redistricting have done so with the assistance of staff, including research staff,
15 legislative counsel, redistricting and GIS specialists, and special masters, all of which
16 carry significant expenses.⁶

17
18
19 ⁵ Fiscal Note & Local Impact Statement for S.B. 258 (Nov. 3,
20 2023), <https://www.legislature.ohio.gov/download?key=17742&format=pdf>.

21 ⁶ See, e.g., Nevada Legislature Committee to Conduct an Interim Study of the
22 Requirements for Reapportionment and Redistricting in the State of Nevada (Aug.
23 27, 2020), <https://www.leg.state.nv.us/App/InterimCommittee/REL/Document/16591>;
24 Committee to Conduct an Investigation into Matters Relating to Reapportionment
25 and Redistricting in Nevada,
26 <https://www.leg.state.nv.us/App/InterimCommittee/REL/Interim2021/Committee/1909/Staff>;
27 Nevada Legislature, Summary Minutes of the Public Hearing by Special
28 Masters to Receive Testimony Concerning Redistricting of Legislative and
Congressional Districts,
<https://www.leg.state.nv.us/App/InterimCommittee/REL/Document/14769>.

1 Nor will the expenses of the Commission be limited to the redistricting itself.
2 Under the Petition, the Commission must hold meetings “open to the public,” with an
3 opportunity for public viewing, testimony, and participation, provide public notice of
4 proposed plans and an opportunity for public review and comment, and make its
5 records available as public records. Ex. 1 at 1. Meeting these requirements costs
6 money, too, but the Petition fails to raise any revenue to fund it.

7 The Petition therefore “creat[es] a new requirement for the appropriation of
8 state funding that does not now exist,” *Educ. Freedom PAC*, 138 Nev., Adv. Op. 47,
9 512 P.3d at 304, and leaves “budgeting officials no discretion in appropriating or
10 expending the money mandated by the initiative—the budgeting official must
11 approve the appropriation or expenditure” to comply with its provisions. *Herbst*
12 *Gaming*, 122 Nev. at 890, 141 P.3d at 1233. Because the Petition requires an
13 appropriation and expenditure but does not “provide[] for raising the necessary
14 revenue” as Article 19, Section 6 requires, it is void ab initio for unlawfully mandating
15 an unfunded expenditure. *Rogers*, 117 Nev. at 173, 18 P.3d at 1036.

16 **II. The Petition’s description of effect’s omission of critical details**
17 **renders it legally insufficient.**

18 The Petition also includes an unlawfully deficient description of its effects.
19 Under NRS 295.009(1)(b), initiative petitions must “set forth, in not more than 200
20 words, a description of the effect of the initiative or referendum if the initiative or
21 referendum is approved by the voters.” The description of effect should “prevent voter
22 confusion and promote informed decisions.” *Nevadans for Nev. v. Beers*, 122 Nev. 930,
23 939, 142 P.3d 339, 345 (2006) (per curiam) (quoting *Campbell v. Buckley*, 203 F.3d
24 738, 746 (10th Cir. 2000)). To achieve this end, “a description of effect must identify
25 what the law proposes and how it intends to achieve that proposal.” *Educ. Initiative*
26 *PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 42, 293 P.3d 874, 879 (2013). In
27 doing so, the description “must be straightforward, succinct, and nonargumentative,
28 and it must not be deceptive or misleading.” *Id.* (cleaned up) (quoting *Las Vegas*

1 *Taxpayer Accountability Comm. v. City Council*, 125 Nev. 165, 183, 208 P.3d 429, 441
2 (2009)). A description must also sufficiently “explain the[] ramifications of the
3 proposed amendment” to allow voters to make an informed decision. *Nev. Judges*
4 *Ass’n v. Lau*, 112 Nev. 51, 59, 910 P.2d 898, 903 (1996). A description does not need
5 to describe *every* possible effect, but it must accurately describe the main
6 consequences of the initiative. *See, e.g., Las Vegas Taxpayer Accountability Comm.*,
7 125 Nev. at 184, 208 P.3d at 441 (finding description of effect materially misleading
8 where it “materially fails to accurately identify the consequences of the referendum’s
9 passage”). This includes identifying “the need for or nature of the revenue source” to
10 fund the proposed initiative. *Educ. Freedom PAC*, 138 Nev., Adv. Op. 47, 512 P.3d at
11 304.

12 The Petition’s description of effect is legally deficient because it fails to include
13 two material facts that the First Judicial District Court held must be included in the
14 description of the materially identical 2019 petition. Ex. 3 at 4–5. *First*, the Petition’s
15 description of effect does not include a statement that the Petition “will result in the
16 expenditure of state funds to fund the Commission,” which the First Judicial District
17 Court ordered to be added to the 2019 petition’s description of effect. *Id.* at 5. Like
18 the original description for the 2019 petition, the Petition’s description therefore
19 “does not provide potential signatories with enough information about the cost
20 consequences of the Petition—specifically, that it will result in the expenditure of
21 state funds.” *Id.* at 4.

22 *Second*, the Petition’s description of effect does not include a statement that
23 the Petition provides for mid-cycle redistricting that “could replace maps drawn by
24 the Legislature after the 2020 census,” which the First Judicial District Court ordered
25 added to the 2019 petition’s description of effect after holding that the original
26 description did “not adequately inform voters that the Petition would result in
27 redistricting in 2023 after the Legislature has already drawn electoral districts after
28

1 the 2020 census.” *Id.* at 4–5. The Petition’s description says only that the Petition
2 “will require redistricting following the 2026 election and each federal census
3 thereafter,” which is exactly the language that the First Judicial District Court held
4 inadequate in 2019. *See id.* at 2 (“This amendment will require redistricting by the
5 Commission beginning in 2023 and thereafter following each federal census.”).

6 The Petition’s description of effect therefore fails to sufficiently “identify what
7 the law proposes and how it intends to achieve that proposal.” *Educ. Initiative PAC*,
8 129 Nev. at 42, 293 P.3d at 879. Independently and collectively, these omissions
9 render the Petition’s description of effect legally deficient.

10 CONCLUSION

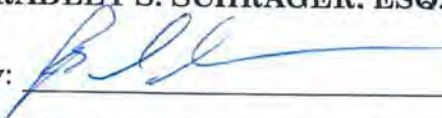
11 Because the Petition would mandate significant public expenditures without
12 providing for reciprocal revenues, it violates Article 19, Section 6 of the Nevada
13 Constitution and is void. And because the description of effect omits critical details,
14 it is legally insufficient. The Court should therefore grant Plaintiff’s requested relief,
15 striking the Petition and issuing an injunction prohibiting the Secretary from taking
16 further action upon it.

1 **AFFIRMATION**

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

4 DATED this 6th day of December, 2023.

5
6 **BRADLEY S. SCHRAGER, ESQ. (SBN 10217)**

7 By: 

8
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Exhibit 1

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Exhibit 1



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

Sondra Cosgrove

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

1. Sondra Cosgrove
2. Richard MacLean
3. Edward Gonzalez Jr.

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

Fair Maps Nevada

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 Sondra Cosgrove

Signature of Petition Filer

11/14/2023

Date

State of Nevada - Initiative Petition – Constitutional Amendment

EXPLANATION: Matter in *bolded italics* is new language to be added to the Nevada Constitution by this Amendment. Matter in strikethrough is existing language in the Nevada Constitution to be deleted by this Amendment.

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

Section 1: Article 4, Section 5 of the Nevada Constitution is hereby amended to read as follows:

Section 5. Number of Senators and members of Assembly; ~~apportionment.~~ Senators and members of the Assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of Senators shall not be less than one-third nor more than one-half of that of the members of the Assembly.

It shall be the mandatory duty of the Legislature at its first session after the taking of the decennial census of the United States in the year 1950, and after each subsequent decennial census, to fix by law the number of Senators and Assemblymen, ~~and apportion them among the several counties of the State, or among legislative districts which may be established by law, according to the number of inhabitants in them, respectively.~~

Section 2: Article 4 of the Nevada Constitution is hereby amended by adding thereto new sections to be designated as Sections 5A, 5B and 5C, to read as follows:

Section 5A. Apportionment; Creation of Independent Redistricting Commission.

- 1. There is created within the legislative branch of state government the Independent Redistricting Commission. It shall be the duty of the Commission no later than December 31, 2027 and after each decennial census of the United States thereafter, to apportion the number of Senators and Assemblymen among legislative districts established by the Commission and to apportion the number of representatives in the United States House of Representatives among districts established by the Commission.**
- 2. The Commission shall be composed of seven members who are registered and eligible to vote in Nevada, and who satisfy the qualification standards in subsection 3. The Senate Majority Leader, Senate Minority Leader, Speaker of the Assembly, and Assembly Minority Leader shall each appoint one Commissioner. The four Commissioners appointed in this manner shall appoint three additional Commissioners, each of whom, for at least four years immediately preceding their appointment, has not been registered or affiliated with the largest political party or the second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year, and none of whom, if registered or affiliated with a political party, is affiliated or registered with the same political party as another Commissioner.**
- 3. Within four years preceding appointment and during their term, no Commissioner may be a registered lobbyist; a candidate for a federal, state, or partisan local office; an elected official to a federal, state, or partisan local office; an officer or member of the governing body of a national, state, or local political party; a paid consultant or employee of a federal, state, or partisan local elected official or candidate, or of a political action committee, or of a committee sponsored by a political party, or of a committee that seeks to influence elections to federal, state, or partisan local offices; an employee of the Legislature; an employee of the State of Nevada, except for employees in the judicial branch, the armed forces, or a state institution of higher education; or related within the third degree of consanguinity or affinity to any individual disqualified under this subsection.**
- 4. The term of office of each Commissioner shall expire once the Commission has completed its obligations for a census cycle but not before any judicial review of the redistricting plan is complete and shall expire no later than the release of the following decennial census of the United States.**
- 5. All meetings of the Commission shall be open to the public. The Commission shall ensure that the public has opportunities to view, present testimony, and participate in hearings before the Commission. All Commission materials shall be public records.**

6. *The Commission shall adopt rules to govern its administration and operation.*
7. *The powers granted to the Commission are legislative functions not subject to the control or approval of the Legislature and are exclusively reserved to the Commission.*

Section 5B. Criteria for Determination of Districts; Approval of Final Plans.

1. *In adopting a redistricting plan, the Independent Redistricting Commission shall use the following criteria, in the order listed, to draw districts: Ensure that districts comply with the United States Constitution and applicable federal law; Ensure that districts have an approximately equal number of inhabitants; Ensure that districts are geographically contiguous; Ensure that districts are not drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or elect representatives of their choice, whether by themselves or voting in concert with other persons; Ensure that districts, when considered on a statewide basis, do not unduly advantage or disadvantage a political party; Ensure that districts reflect, to the extent possible, county, city, and township boundaries; Minimize, to the extent practicable, the division of communities of interest, meaning an area with recognized similarities of interests, including but not limited to racial, ethnic, economic, social, cultural, geographic, or historic identities, but not including common relationships with political parties or political candidates; Ensure that districts are reasonably compact; and to the extent practicable, after complying with the requirements above, consider the number of politically competitive districts, measured by creating a reasonable potential for the party affiliation of the district's representative to change at least once between federal decennial censuses.*
2. *Not later than December 31, 2027 and 180 days from the release of the decennial census of the United States thereafter, the Commission shall approve a redistricting plan for the Nevada State Senate, the Nevada State Assembly, and Nevada's Congressional Districts, after providing public notice of each proposed final plan and allowing sufficient time for public review and comment. A final plan may be approved by the Commission only upon at least five affirmative votes, including at least one Commissioner registered with the largest political party, one Commissioner registered with the second largest political party, and one Commissioner not registered or affiliated with the largest or second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year.*

Section 5C. Severability.

Should any part of this Amendment be declared invalid, or the application thereof to any person, thing, or circumstance be held invalid, such invalidity shall not affect the remaining provisions or application of this Amendment which can be given effect without the invalid provision or application, and to this end the provisions of this Amendment are declared to be severable. This Section shall be construed broadly to preserve and effectuate the purpose of this Amendment.

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DESCRIPTION OF EFFECT

This measure will amend the Nevada Constitution to establish a redistricting commission to map electoral districts for the Nevada Senate, Assembly, and U.S. House of Representatives.

The Commission will have seven members, four who will be appointed by the leadership of the Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the public which shall have opportunities to participate in hearings.

The Commission will ensure, to the extent possible, that the districts comply with the U.S. Constitution, have an approximately equal number of inhabitants, are geographically compact and contiguous, provide equal opportunities for racial and language minorities to participate in the political process, respect areas with recognized similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not unduly advantage or disadvantage a political party, and are politically competitive.

This amendment will require redistricting following the 2026 election and each federal census thereafter.

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
1	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY
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DESCRIPTION OF EFFECT

This measure will amend the Nevada Constitution to establish a redistricting commission to map electoral districts for the Nevada Senate, Assembly, and U.S. House of Representatives.

The Commission will have seven members, four who will be appointed by the leadership of the Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the public which shall have opportunities to participate in hearings.

The Commission will ensure, to the extent possible, that the districts comply with the U.S. Constitution, have an approximately equal number of inhabitants, are geographically compact and contiguous, provide equal opportunities for racial and language minorities to participate in the political process, respect areas with recognized similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not unduly advantage or disadvantage a political party, and are politically competitive.

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 Petition District _____

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Place Affidavit on last page of document.

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

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Exhibit 2

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Exhibit 2

State of Nevada - Initiative Petition – Constitutional Amendment

C-02-2019

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2019 NOV 4 PM4:16

EXPLANATION: Matter in *bolded italics* is new language to be added to the Nevada Constitution by this Amendment. Matter in strikethrough is existing language in the Nevada Constitution to be deleted by this Amendment.

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

Section 1: Article 4, Section 5 of the Nevada Constitution is hereby amended to read as follows:

Section 5. Number of Senators and members of Assembly; ~~apportionment~~. Senators and members of the Assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of Senators shall not be less than one-third nor more than one-half of that of the members of the Assembly.

It shall be the mandatory duty of the Legislature at its first session after the taking of the decennial census of the United States in the year 1950, and after each subsequent decennial census, to fix by law the number of Senators and Assemblymen, ~~and apportion them among the several counties of the State, or among legislative districts which may be established by law, according to the number of inhabitants in them,~~ respectively.

Section 2: Article 4 of the Nevada Constitution is hereby amended by adding thereto new sections to be designated as Sections 5A, 5B and 5C, to read as follows:

Section 5A. Apportionment; Creation of Independent Redistricting Commission.

- 1. There is created within the legislative branch of state government the Independent Redistricting Commission. It shall be the duty of the Commission in the year 2023, and after each subsequent decennial census of the United States, to apportion the number of Senators and Assemblymen among legislative districts established by the Commission and to apportion the number of representatives in the United States House of Representatives among districts established by the Commission.*
- 2. The Commission shall be composed of seven members who are registered and eligible to vote in Nevada, and who satisfy the qualification standards in subsection 3. The Senate Majority Leader, Senate Minority Leader, Speaker of the Assembly, and Assembly Minority Leader shall each appoint one Commissioner. The four Commissioners appointed in this manner shall appoint three additional Commissioners, each of whom, for at least four years immediately preceding their appointment, has not been registered or affiliated with the largest political party or the second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year, and none of whom, if registered or affiliated with a political party, is affiliated or registered with the same political party as another Commissioner.*
- 3. Within four years preceding appointment and during their term, no Commissioner may be a registered lobbyist; a candidate for a federal, state, or partisan local office; an elected official to a federal, state, or partisan local office; an officer or member of the governing body of a national, state, or local political party; a paid consultant or employee of a federal, state, or partisan local elected official or candidate, or of a political action committee, or of a committee sponsored by a political party, or of a committee that seeks to influence elections to federal, state, or partisan local offices; an employee of the Legislature; an employee of the State of Nevada, except for employees in the judicial branch, the armed forces, or a state institution of higher education; or related within the third degree of consanguinity or affinity to any individual disqualified under this subsection.*
- 4. The term of office of each Commissioner shall expire once the Commission has completed its obligations for a census cycle but not before any judicial review of the redistricting plan is complete and shall expire no later than the release of the following decennial census of the United States.*

5. All meetings of the Commission shall be open to the public. The Commission shall ensure that the public has opportunities to view, present testimony, and participate in hearings before the Commission. All Commission materials shall be public records.
6. The Commission shall adopt rules to govern its administration and operation.
7. The powers granted to the Commission are legislative functions not subject to the control or approval of the Legislature and are exclusively reserved to the Commission.

Section 5B. Criteria for Determination of Districts; Approval of Final Plans.

1. In adopting a redistricting plan, the Independent Redistricting Commission shall use the following criteria, in the order listed, to draw districts: Ensure that districts comply with the United States Constitution and applicable federal law; Ensure that districts have an approximately equal number of inhabitants; Ensure that districts are geographically contiguous; Ensure that districts are not drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or elect representatives of their choice, whether by themselves or voting in concert with other persons; Ensure that districts, when considered on a statewide basis, do not unduly advantage or disadvantage a political party; Ensure that districts reflect, to the extent possible, county, city, and township boundaries; Minimize, to the extent practicable, the division of communities of interest, meaning an area with recognized similarities of interests, including but not limited to racial, ethnic, economic, social, cultural, geographic, or historic identities, but not including common relationships with political parties or political candidates; Ensure that districts are reasonably compact; and to the extent practicable, after complying with the requirements above, consider the number of politically competitive districts, measured by creating a reasonable potential for the party affiliation of the district's representative to change at least once between federal decennial censuses.
2. Not later than July 1, 2023, and thereafter not later than 180 days from the release of the decennial census of the United States, the Commission shall approve a redistricting plan for the Nevada State Senate, the Nevada State Assembly, and Nevada's Congressional Districts, after providing public notice of each proposed final plan and allowing sufficient time for public review and comment. A final plan may be approved by the Commission only upon at least five affirmative votes, including at least one Commissioner registered with the largest political party, one Commissioner registered with the second largest political party, and one Commissioner not registered or affiliated with the largest or second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year.

Section 5C. Severability.

Should any part of this Amendment be declared invalid, or the application thereof to any person, thing, or circumstance be held invalid, such invalidity shall not affect the remaining provisions or application of this Amendment which can be given effect without the invalid provision or application, and to this end the provisions of this Amendment are declared to be severable. This Section shall be construed broadly to preserve and effectuate the purpose of this Amendment.

[The remainder of this page is blank.]

DESCRIPTION OF EFFECT

This measure will amend the Nevada Constitution to establish an Independent Redistricting Commission to oversee the mapping of fair and competitive electoral districts for the Nevada Senate, Nevada Assembly, and U.S. House of Representatives.

The Commission will consist of seven Nevada voters, four who will be appointed by the leadership of the Nevada Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. All meetings of the Commission shall be open to the public who shall have opportunities to participate in hearings before the Commission.

The Commission will ensure, to the extent possible, that the electoral districts comply with the United States Constitution, have an approximately equal number of inhabitants, are geographically compact and contiguous, provide equal opportunities for racial and language minorities to participate in the political process, respect areas with recognized similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not unduly advantage or disadvantage a political party, and are politically competitive.

This amendment will require redistricting by the Commission beginning in 2023 and thereafter following each federal census.

County of _____ (Only registered voters of this county may sign below)
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	YOUR SIGNATURE _____ DATE ____/____/____	CITY _____	COUNTY _____

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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

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Exhibit 3

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 3

MCDONALD CARANO
100 WEST LIBERTY STREET, TENTH FLOOR • RENO, NEVADA 89501
PHONE 775.788.2000 • FAX 775.788.2020

1 Adam Hosmer-Henner, Esq. (NSBN 12779)
2 Lucas Foletta, Esq. (NSBN 12154)
3 McDONALD CARANO
4 100 West Liberty Street, 10th Floor
5 Reno, NV 89501
6 (775) 788-2000
7 ahosmerhenner@mcdonaldcarano.com
8 lfoletta@mcdonaldcarano.com

9 *Attorneys for Defendant*
10 *Fair Maps Nevada PAC*

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2020 JAN -2 PM 12:15
AUBREY ROWLATT
CLERK
DEPUTY

11 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
12 **IN AND FOR CARSON CITY**

13 * * *

14 REV. LEONARD JACKSON,
15 Plaintiff,
16 vs.
17 FAIR MAPS NEVADA PAC, and
18 BARBARA CEGAVSKE, in her official
19 capacity as Nevada Secretary of State,
20 Defendants.

Case No. 19 OC 00209 1B
Dept. No. I
[PROPOSED] ORDER

21 **ORDER**

22 This matter having come before this Court pursuant to Plaintiff Reverend Leonard
23 Jackson's Complaint for Declaratory Relief ("Complaint") and Plaintiff's Opening Brief in
24 Support of Complaint for Declaratory and Injunctive Relief ("Opening Brief"), and having
25 considered Defendant Fair Maps Nevada PAC's ("Fair Maps") Answer and Answering Brief in
26 Response to Plaintiff's Opening Brief in Support of Complaint for Declaratory and Injunctive
27 Relief ("Answering Brief") and Plaintiff's Reply Brief in Support of Complaint for Declaratory
28 Relief ("Reply Brief") as well as the arguments of counsel at the hearing held December 23,
2019, the Court finds as follows:

//
//

1 PROCEDURAL BACKGROUND

2 Fair Maps filed Initiative Petition #C-02-2019 (“Petition”) on November 4, 2019 to
3 amend the Nevada Constitution by adding a new section to the Nevada Constitution to establish
4 a redistricting commission to map electoral districts for members of the Nevada Senate, Nevada
5 Assembly, and Nevada’s delegation to the U.S. House of Representatives. The Petition includes
6 the following description of effect:

7 This measure will amend the Nevada Constitution to establish an
8 Independent Redistricting Commission to oversee the mapping of fair and
9 competitive electoral districts for the Nevada Senate, Nevada Assembly, and U.S.
10 House of Representatives.

11 The Commission will consist of seven Nevada voters, four who will be
12 appointed by the leadership of the Nevada Legislature, and three who are
13 unaffiliated with the two largest political parties who will be appointed by the
14 other four commissioners. Commissioners may not be partisan candidates,
15 lobbyists, or certain relatives of such individuals. All meetings of the Commission
16 shall be open to the public who shall have opportunities to participate in hearings
17 before the Commission.

18 The Commission will ensure, to the extent possible, that the electoral
19 districts comply with the United States Constitution, have an approximately equal
20 number of inhabitants, are geographically compact and contiguous, provide equal
21 opportunities for racial and language minorities to participate in the political
22 process, respect areas with recognized similarities of interests, including racial,
23 ethnic, economic, social, cultural, geographic, or historic identities, do not unduly
24 advantage or disadvantage a political party, and are politically competitive.

25 This amendment will require redistricting by the Commission beginning in
26 2023 and thereafter following each federal census.

27 Plaintiff filed his Complaint and the Opening Brief on November 26, 2019, in which he
28 argues that the Petition’s description of effect fails to comply with NRS 295.009(1)(b). More
specifically, he contends that description of the commission as independent and the description
of effect’s statement that the commission will oversee “the mapping of fair and competitive
electoral districts,” are materially misleading statements. Compl. ¶¶ 15 & 23. He also asserts
that the description of effect is deceptive and misleading because it fails to inform voters of a
specific practical effect of passage of the Petition—that the redistricting commission will “undo”
electoral maps generated by the Legislature in 2021 “thus potentially doubling the resources that
would otherwise be spent on redistricting following the 2020 census.” *Id.* at ¶¶ 30. Plaintiff’s
Complaint is limited to his challenge to the description of effect.

1 Fair Maps contends that the use of the term independent and the characterization of the
2 commission's objective of creating fair and competitive electoral districts is neither deceptive
3 nor misleading and amount to attacks on the policy reflected in the Petition and not the
4 description of effect. Ans. Br. 6-8. Fair Maps also contends that Plaintiff's claim that there will
5 be additional redistricting costs as a result of Petition is speculative and hypothetical and
6 therefore need not be addressed in the description of effect. *Id.* at 8-10.

7 LEGAL STANDARDS

8 Article 19, Section 2 of the Nevada Constitution enshrines the people's right to amend
9 the Nevada Constitution by initiative petition. Specifically it states that "the people reserve to
10 themselves the power to propose, by initiative petition, . . . amendments to this Constitution."
11 Nev. Const. art. 19, § 2(1). The Nevada Constitution further provides that the Legislature "may
12 provide by law for procedures to *facilitate* the operation thereof." *Id.* art. 19, § 5 (emphasis
13 added). In interpreting such laws, the courts "must make every effort to sustain and preserve the
14 people's constitutional right to amend their constitution through the initiative process."
15 *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 912, 141 P.3d 1235, 1247
16 (2006).

17 NRS 295.009(1)(b) provides that a petition must "[s]et forth, in not more than 200
18 words, a description of the effect of the initiative . . . if the initiative . . . is approved by the
19 voters." NRS 295.009(1)(b). The Nevada Supreme Court has noted that "[a] description of effect
20 serves a limited purpose to facilitate the initiative process," and that a description of effect
21 should be reviewed with an eye toward that limited purpose. *Educ. Initiative PAC v. Comm. to*
22 *Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013). Thus, while a description of
23 effect need not "delineate every effect that an initiative will have," it must be "a straightforward,
24 succinct, and nonargumentative statement of what the initiative will accomplish and how it will
25 achieve those goals." *Id.* at 38, 293 P.3d at 876. A description of effect cannot "be deceptive or
26 misleading." *Id.* at 42, 293 P.3d at 879.

27 In reviewing a description of effect, "it is inappropriate to parse the meanings of the
28 words and phrases used in a description of effect" as closely as a reviewing court would a

1 statutory text. *Id.* at 48, 293 P.3d at 883. Such an approach “comes at too high a price in that it
2 carries the risk of depriving the people of Nevada of their constitutional right to propose laws by
3 initiative.” *Id.* Thus, a reviewing court “must take a holistic approach” to the required analysis.
4 *Id.* “The opponent of a ballot initiative bears the burden of showing that the initiative’s
5 description of effect fails to satisfy this standard.” *Id.* at 42, 293 P.3d at 879.

6 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

7 In this case, the description of effect for the Petition does not meet the requirements of
8 NRS 295.009(1)(b). The description of effect could be argumentative or confusing or
9 misleading to voters as currently written. The description of effect does not adequately explain
10 to voters what is meant by the term “independent” or the phrase “fair and competitive.” The
11 Court further finds that the description of effect is inadequate in that it does not provide potential
12 signatories with enough information about the cost consequences of the Petition—specifically,
13 that it will result in the expenditure of state funds. *See, e.g., Nev. Judges Ass’n v. Lau*, 112 Nev.
14 51,59 (1996). The Petition also does not adequately inform voters that the Petition would result
15 in redistricting in 2023 after the Legislature has already drawn electoral districts after the 2020
16 Census.

17 The Court finds that the above-referenced deficiencies may be cured through the revised
18 description of effect provided herein. NRS 295.061(3) provides that “[i]f a description of the
19 effect of an initiative or referendum required pursuant to NRS 295.009 is challenged
20 successfully . . . and such description is amended in compliance with the order of the court, the
21 amended description may not be challenged.” NRS 295.061(3). Thus, the Court, in consultation
22 with the parties, identifies a new description of effect that satisfies the legal standard required by
23 NRS 295.061(3). This revised description of effect states:

24
25 “This measure will amend the Nevada Constitution to establish a redistricting
26 commission to map electoral districts for the Nevada Senate, Assembly, and U.S. House of
Representatives.

27 The Commission will have seven members, four who will be appointed by the leadership
28 of the Legislature, and three who are unaffiliated with the two largest political parties who will
be appointed by the other four commissioners. Commissioners may not be partisan candidates,

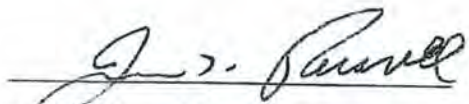
1 lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the
2 public who shall have opportunities to participate in hearings.

3 The Commission will ensure, to the extent possible, that the districts comply with the
4 U.S. Constitution, have an approximately equal number of inhabitants, are geographically
5 compact and contiguous, provide equal opportunities for racial and language minorities to
6 participate in the political process, respect areas with recognized similarities of interests,
7 including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not
8 unduly advantage or disadvantage a political party, and are politically competitive.

9 This amendment requires redistricting after each federal census, beginning in 2023,
10 which could replace maps drawn by the Legislature after the 2020 census, and will result in the
11 expenditure of state funds to fund the Commission.”

12 **IT IS THEREFORE ORDERED** and declared that the description of effect filed with
13 the Secretary of State on November 4, 2019 failed to satisfy the requirements of NRS
14 295.009(1)(b). Thus, any signatures collected on the Petition containing the description of effect
15 are invalid. However, Defendant Fair Maps may re-file an amended petition with the revised
16 description of effect as set forth by this Order, which cures all deficiencies raised by Plaintiff
17 and identified by the Court. Upon re-filing, the description of effect will have been amended in
18 compliance with this Order and be accorded the finality set forth in NRS 295.061(3) and shall
19 not be subject to further challenge. NRS 295.061(3).

20 Dated this 2 day of ~~December~~ ^{January}, 2020.

21 
22 District Court Judge James Russell

23 Respectfully submitted by:
24 McDONALD CARANO LLP

25 By: /s/ Adam Hosmer-Henner
26 Adam Hosmer-Henner, Esq. (NSBN 12779)
27 Lucas Foletta, Esq. (NSBN 12154)
28 McDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501
Attorneys for Defendant Fair Maps PAC

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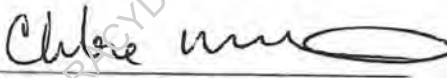
CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 2 day of January 20201 deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Kevin K. Benson, Esq.
123 West Nye Lane, Suite 487
Carson City, NV 89706

Adam Hosmer-Henner, Esq.
Lucas Foletta, Esq.
MCDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501

Gregory L. Zunino, Esq.
100 N Carson Street
Carson City, NV 89701


Chloé McClintick, Esq.
Law Clerk, Dept. 1

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Exhibit 4

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Exhibit 4

IN THE SUPREME COURT OF THE STATE OF NEVADA

REV. LEONARD JACKSON,
Appellant/Cross-Respondent,
vs.
FAIR MAPS NEVADA PAC,
Respondent/Cross-Appellant,
and
BARBARA K. CEGAVSKE, IN HER
OFFICIAL CAPACITY AS NEVADA
SECRETARY OF STATE,
Respondent.

No. 80563

FILED

JUL 24 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal and cross-appeal from a district court order granting declaratory relief in a ballot initiative matter. First Judicial District Court, Carson City; James Todd Russell, Judge.

Reverend Leonard Jackson contends that the district court lacked "jurisdiction" to "rewrite" Fair Maps Nevada PAC's description of effect. We are not persuaded by Jackson's argument, as he has presented no authority that actually supports his position, *see Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (requiring parties to support arguments with salient authority), nor has he explained how construing NRS 295.061(3) in such a manner would further any public policy goals, *see Tam v. Eighth Judicial Dist. Court*, 131 Nev. 792, 800, 358 P.3d 234, 240 (2015) (recognizing that we construe statutes in accordance with "reason and public policy" (internal quotation marks omitted)).

Jackson next contends that Fair Maps' rewritten description of effect is still misleading. We disagree. While a description of effect must not be deceptive or misleading, *Educ. Initiative PAC v. Comm. to Protect*

Nev. Jobs, 129 Nev. 35, 42, 293 P.3d 874, 879 (2013), Jackson's fixation on the description's use of "could" instead of "will" requires an improperly "hyper-technical" analysis of the description, *id.* at 49, 293 P.3d at 883-84. We are likewise unpersuaded that the district court failed to make sufficient factual findings. The only shortcoming Jackson alleges pertains to an issue that appeared in the original description of effect but that is absent from the amended description. Accordingly, we affirm the district court's order insofar as Jackson challenges it.

On cross-appeal, Fair Maps argues that the district court erred in determining that its original description of effect was misleading. In light of our above-mentioned determinations, however, this issue is moot, and we therefore dismiss Fair Maps' cross-appeal. *Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) ("This court's duty is not to render advisory opinions . . ."). In so doing, we note that Fair Maps has not indicated that it would prefer to proceed with its original petition instead of its amended petition. In light of the foregoing, we

ORDER the judgment of the district court AFFIRMED.

Pickering, C.J.
Pickering

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Silver, J.
Silver

cc: Hon. James Todd Russell, District Judge
Benson Law LLC
Attorney General/Carson City
McDonald Carano LLP/Reno
Carson City Clerk

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EXHIBIT 3

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Joshua Hicks (NSBN 6679)
2 Adam Hosmer-Henner (NSBN 12779)
Katrina Weil (NSBN 16152)
3 McDONALD CARANO LLP
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7 *Attorneys for Intervenor Fair Maps Nevada*

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8
9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**

11 ERIC JENG, an individual,	Case No.: 23 OC 000138 1B
12 13 Plaintiffs,	Dept. No.: I
14 vs.	
15 FRANCISCO V. AGUILAR, in his official 16 capacity as NEVADA SECRETARY OF 17 STATE,	
18 Defendant.	

18 **FAIR MAPS NEVADA'S ANSWERING BRIEF IN RESPONSE TO PLAINTIFF'S**
19 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF COMPLAINT**
20 **FOR DECLARATORY AND INJUNCTIVE RELIEF CHALLENGING INITIATIVE**
21 **PETITION C-03-2023**

21 Intervenor Fair Maps Nevada, a Nevada political action committee ("Fair Maps"), by
22 and through its attorneys, hereby submits its Answering Brief in Response to Plaintiff Eric Jeng's
23 ("Plaintiff") Memorandum of Points and Authorities in Support of Complaint for Declaratory
24 and Injunctive Relief Challenging Initiative Petition C-03-2023 ("Opening Brief" or "Op. Br.")).
25 This Answering Brief is supported by the following Memorandum of Points and Authorities,
26 the pleadings and papers on file with the Court, and any oral argument entertained by the Court
27 at a hearing in this matter

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1 **I. INTRODUCTION**

2 In a cynical attempt to keep important redistricting ballot questions from the voters, Plaintiff
3 has sued to prevent Fair Maps from circulating Initiative Petition #C-03-2023 (“Petition”). The
4 Petition is a common-sense response to gerrymandering practices that have badly impacted
5 Nevada’s electoral process. The Court should reject Plaintiff’s misplaced attack on the Petition
6 and allow Nevadans to decide whether it qualifies for the ballot. As one member of the Supreme
7 Court stated: “Part of the Court’s role in [our system of government] . . . is to defend its
8 foundations. None is more important than free and fair elections.” *Rucho v. Common Cause*,
9 139 S. Ct. 2484, 2506-07 (2019) (Kagan, J., dissenting). Because the Petition satisfies the
10 requirements of the Nevada Constitution and state statute, the Court should dismiss Plaintiff’s
11 claims.

12 **II. FACTUAL AND PROCEDURAL BACKGROUND**

13 Fair Maps filed the Petition on November 14, 2023 to amend the Nevada Constitution.
14 Complaint (“Compl.”), Ex. 1. The Petition includes the following description of effect
15 (“Description”):

16 This measure will amend the Nevada Constitution to establish a
17 redistricting commission to map electoral districts for the Nevada Senate,
18 Assembly, and U.S. House of Representatives.

19 The Commission will have seven members, four who will be appointed by
20 the leadership of the Legislature, and three who are unaffiliated with the two largest
21 political parties who will be appointed by the other four commissioners.
22 Commissioners may not be partisan candidates, lobbyists, or certain relatives of
23 individuals. Commission meetings shall be open to the public which shall have
24 opportunities to participate in the hearings.

25 The Commission will ensure, to the extent possible, that the districts
26 comply with the U.S. Constitution, have an approximately equal number of
27 inhabitants, are geographically compact and contiguous, provide equal
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process, respect areas with recognized similarities of interests, including racial,
ethnic, economic, social, cultural, geographic, or historic identities, do not unduly
advantage or disadvantage a political party, and are politically competitive.

 This amendment will require redistricting following each federal census.

Compl., ¶ 7.

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1 Plaintiff filed a Complaint for Declaratory Relief and an Opening Brief in Support of
2 Complaint for Declaratory and Injunctive Relief on December 7, 2023. *See generally*
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4 **III. LEGAL STANDARD**

5 Article 19, Section (2) of the Nevada Constitution enshrines the people’s right to amend the
6 Nevada Constitution by initiative petition. Specifically, it states that “the people reserve to
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13 **IV. ARGUMENT**

14 **A. The Initiative Petition Does Not Unlawfully Mandate An Unfunded Expenditure**

15 Article 19, Section 2 of the Nevada Constitution provides that “subject to the limitations
16 of Section 6 of this Article, the people reserve to themselves the power to propose, by initiative
17 petition, statutes and amendments to statutes and amendments to this constitution, and to enact
18 or reject them at the polls.” Section 6 provides that Article 19 “does not permit the proposal of
19 any *statute or statutory amendment* which makes an appropriation or otherwise requires the
20 expenditure of money, unless such statute or amendment also imposes a sufficient tax, not
21 prohibited by the Constitution, or otherwise constitutionally provides for raising the necessary
22 revenue.” Nev. Const. art, 19, § 6 (emphasis added).

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1 Adv. Op. 47, 512 P.3d 296, 303 (2022).

2 In *Reid*, the initiative petition sought to establish education freedom accounts, funded by
3 the state, for schooling outside of public schools. 512 P.3d at 299. The Nevada Supreme Court
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6 no discretion to the Legislature about whether to appropriate or expend the money.” *Id.* at 303-
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8 Here, unlike *Reid*, the initiative does not “creat[e] a *new requirement for the*
9 *appropriation of state funding that does not now exist.*” The Nevada Legislature already has an
10 established redistricting process, and the Petition does not call for a specified appropriation; in
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15 This mandatory duty has been regularly funded by the Legislature. *See, e.g.*, S.B. 1, 80th Leg.
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18 require a new and specific level of appropriation.

19 Further to this point, it should be noted that the funding for redistricting is generally not
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21 Legislature’s business. *See, e.g.*, S.B. 1, 80th Leg. (Nev. 2021); S.B. 1, 66th Leg. (Nev. 1991);
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27 & Michael J. Stewart, *Legislative Redistricting*, in 2018 Political History of Nevada 401, 408
28 (issued by Nevada Secretary of State Barbara Cegavske, produced jointly with the Research

1 Division of the Nevada Legislative Counsel Bureau). The First Judicial District Court appointed
2 three special masters to develop maps, which the court ultimately adopted. *Id.* at 408-09. The
3 Legislature did not appropriate specific funds to support the Court’s oversight of the redistricting
4 process prior to it doing so. *See generally* 76th Leg. (Nev. 2011); 77th Leg. (Nev. 2013).

5 Moreover, it is entirely possible that the proposed amendment would decrease the costs
6 of redistricting. The Legislature could decide not to fund the Commission at all, instead making
7 it a volunteer effort.¹ Nothing in the Petition precludes that possibility. Alternatively, even if
8 the Legislature decides to fund it, the Petition could eliminate the possibility of intracycle
9 redistricting. This could reduce the cost of redistricting altogether. Under the current scheme,
10 the Legislature can re-draw the lines as many times as the Legislature deems appropriate. *See*
11 *Nev. Const. art. 19, § 5.* The Legislature may also redistrict during a special session, further
12 increasing the costs associated with redistricting. Conversely, the Petition provides that the term
13 of each commissioner expires once redistricting is complete. *Compl., Ex. 1, Sections 4, 5A.*
14 Thus, the Petition provides for uniformity and establishes a single redistricting process for each
15 census cycle. This could decrease redistricting costs by eliminating intracycle redistricting.

16 These facts underscore the point that the Petition does not call for a specific
17 appropriation of any “set amount or percentage.” It certainly does not require any budgeting
18 official to “approve the appropriation or expenditure, regardless of any other financial
19 considerations” as argued by Plaintiff. *Herbst Gaming v. Heller*, 122 Nev. 877, 890, 141 P.3d
20 1224, 1233 (2006) (per curiam). It simply tasks a new entity—the redistricting commission—
21 with performing a function the Nevada Constitution already mandates. Thus, the Petition is
22 distinguishable from *Reid*.

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25 ¹ Notably, the number of free redistricting software packages continues to grow. *See, e.g., District*
26 *Builder, a free and open source redistricting tool*, <https://www.districtbuilder.org> (last accessed
27 Dec. 26, 2023); *Autoredistrict, a free and open source computer program*, <http://autoredistrict.org>
28 (last accessed Dec. 26, 2023); Carl Smith, *Can New Technology Tools Keep Redistricting Honest*
and Fair?, GOVERNING, [https://www.governing.com/now/can-new-technology-tools-keep-](https://www.governing.com/now/can-new-technology-tools-keep-redistricting-honest-and-fair)
[redistricting-honest-and-fair](https://www.governing.com/now/can-new-technology-tools-keep-redistricting-honest-and-fair) (last accessed Dec. 26, 2023).

1 That this Court should reject Plaintiff's assertion of *Reid* as a bar to the Petition is likely
2 obvious. Plaintiff's interpretation calls into doubt numerous constitutional provisions enacted
3 by initiative petition. *See, e.g.*, Nev. Const. art. 1, § 21 (initiative petition recognizing validity
4 of same-sex marriage and requiring the state to process same-sex marriage licenses); Nev. Const.
5 art. 1, § 22 (initiative petition allowing eminent domain proceedings and requiring the
6 government to pay "the highest price the property would bring on the open market"); Nev.
7 Const. art. 2, § 10 (initiative petition limiting campaign contributions and necessitating changes
8 in the campaign finance reporting and compliance system); Nev. Const. art. 4, § 38 (initiative
9 petition allowing the use of medical marijuana and implementing a cannabis compliance and
10 taxation system); Nev. Const. art. 4, § 39 (initiative petition requiring increased usage of
11 renewable energy necessitating changes to the state reporting and compliance structure); Nev.
12 Const. art. 10, § 3 (initiative petition exempting household goods from taxation necessitating
13 changes to tax reporting systems and compliance training process); Nev. Const. art. 10, § 3B
14 (initiative petition exempting durable medical equipment from taxation necessitating changes to
15 state tax reporting systems and compliance training); Nev. Const. art. 11, § 6 (initiative petition
16 establishing the priority of education funding and necessitating sufficient education funding
17 before any other appropriation); Nev. Const. art. 15, § 16 (initiative petition establishing
18 minimum wage increases and necessitating sufficient appropriation to pay state employees).

19 The preclusion of a constitutional amendment seeking to modify an already existing
20 expense only chills the people's initiative power. Such an interpretation flies in the face of well-
21 established policy directives for initiative proposals. Indeed, "the right to initiate change in this
22 state's laws through ballot proposals is one of the basic powers enumerated in this state's
23 constitution." *Univ. Sys. v. Nevadans for Sound Gov't*, 120 Nev. 712, 734, 100 P.3d 179, 195
24 (2004). Thus, the Petition is entirely consistent with other initiative petitions in the Nevada
25 Constitution.

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1 **B. Constitutional Initiative Petitions Should Not Be Subject to Article 19, Section 6 of**
2 **the Nevada Constitution**

3 As the concurrence in *Reid* properly noted, “under the plain language of Article 19, Section
4 6 of the Nevada Constitution, its funding mandate applies only to initiative petitions proposing
5 statutes or statutory amendments, not to initiatives proposing constitutional amendments.” *Reid*,
6 512 P.3d at 306 (Herndon, J., concurring). Section 6 is “unambiguous and clearly singles out
7 two distinct initiative-based actions available to the people: proposals for new statutes and
8 proposals for amendments to existing statutes; while specifically excluding a third initiative-
9 based action available to the people: proposals to amend the constitution.” *Id.* (Herndon, J.,
10 concurring). When a constitutional provision is unambiguous, the court will apply it according
11 to the plain language of the provision. *Nevadans for Nev. v. Beers*, 122 Nev. 930, 942, 142 P.3d
12 339, 347 (2006); *see also In re Resort at Summerlin Litig.*, 122 Nev. 177, 185, 127 P.3d 1076,
13 1081 (2006) (noting when “a general statutory provision and a specific one cover the same
14 subject matter, the specific provision controls”). “Because a state constitution is meant to be a
15 basic set of laws and principles that set out the framework of the state’s government, including
16 a funding provision for each specific basic law and principle within that document would be
17 inappropriate.” *Reid*, 512 P.3d at 307 (Herndon, J., concurring).

18 Ignoring the plain language of Article 19, Section 6 and creating a requirement for ballot
19 initiatives proposing changes to the Nevada Constitution to identify a specific source of funding
20 runs afoul the right to file ballot questions. *See, e.g., Nev. Const. art. 19, § 2.* Under Plaintiff’s
21 proposed expansive interpretation of *Reid*, any constitutional petition that increases expenses in
22 any way is invalid. As described above, this reading would invalidate a number of constitutional
23 provisions enacted by initiated petition. This reading also badly misconstrues the Nevada
24 Supreme Court’s prior case law addressing the issue. Prior to *Reid*, the Nevada Supreme Court
25 had *not* concluded that Article 19, Section 6 applies to constitutional initiatives. *Reid*, 512 P.3d
26 at 307-08 (distinguishing *Rogers*, 117 Nev. at 173, and *Herbst*, 122 Nev. at 890-91 from *Reid*)
27 (Herndon, J., concurring).

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1 **C. The Description of the Petition Is Not Deficient**

2 NRS 295.009(1)(b) requires each initiative petition to “[s]et forth, in not more than 200
3 words, a description of the effect of the initiative . . . if the initiative . . . is approved by the
4 voters.” The Nevada Supreme Court has noted that “[a] description of effect serves a limited
5 purpose to facilitate the initiative process . . .”, *Educ. Initiative PAC v. Comm. To Protect Nev.*
6 *Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013), and that a description of effect should be
7 reviewed with an eye toward that limited purpose, *see id.* Thus, while a description of effect
8 need not “delineate every effect that an initiative will have,” it “must be a straightforward,
9 succinct, and nonargumentative statement of what the initiative will accomplish and how it will
10 achieve those goals.” *Id.* at 38, 293 P.3d at 876. A description of effect cannot “be deceptive
11 or misleading.” *Id.* at 42, 293 P.3d at 879.

12 In reviewing a description of effect, “it is inappropriate to parse the meanings of words and
13 phrases used in a description of effect” as closely as a reviewing court would a statutory text.
14 *Id.* at 48, 293 P.3d at 883. Such an approach “comes at too high a price in that it carries the risk
15 of depriving the people of Nevada of their constitutional right to propose laws by initiative . . .
16 .” *Id.* Thus, a reviewing court “must take a holistic approach” to the required analysis. *Id.*
17 “The opponent of a ballot initiative bears the burden of showing that the initiative’s description
18 of effect fails to satisfy this standard.” *Id.* at 42, 293 P.3d at 879.

19 Plaintiff’s sole contention regarding the Description is that it fails to state that the Petition
20 will “result in the expenditure of state funds to fund the Commission.” Op. Br. at 8-9. As
21 discussed herein, the Petition does not require a description of the expenditure because the
22 Petition does not require an appropriation. *See supra*, sections A-B. The description in the
23 Petition describes the changes to the redistricting process and “is a straightforward, succinct,
24 and nonargument statement of what the initiative petition will accomplish and how it will
25 achieve those goals.” *Educ. Initiative PAC*, 129 Nev at 38, 293 P.3d at 876.

26 While the description of the effect contained within the Petition is legally sufficient and
27 holistically sound, should this court determine that Fair Maps needs to revise the Description to
28 include reference to the possibility that the Petition will require an expenditure of state funds,

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Fair Maps may revise the Description in accordance with the Court’s findings. NRS 295.061(3) (clarifying that the proponent of an initiative is afforded the opportunity to amend a description of effect to resolve any inadequacies identified by the court).

D. CONCLUSION

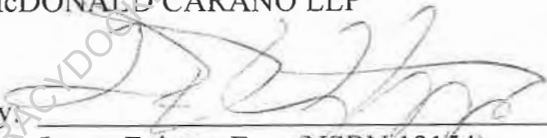
For all of the above reasons, the Court should deny Plaintiff’s attempt to keep the Petition off the ballot and dismiss Plaintiff’s suit.

AFFIRMATION

The undersigned does hereby affirm that pursuant to NRS 239B.030, the preceding document does not contain the social security number of any person.

Dated this 26th day of December, 2023.

McDONALD CARANO LLP

By: 

Lucas Foletta, Esq. (NSBN 12154)
Joshua Hicks (NSBN 6679)
Adam Hosmer-Henner (NSBN 12779)
Katrina Weil (NSBN 16152)
100 W. Liberty Street, Tenth Floor
Reno, NV 89501
Telephone: (775) 788-2000

Attorneys for Fair Maps Nevada

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD CARANO LLP and that on December 26, 2023, I served the within **ANSWERING BRIEF IN RESPONSE TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CHALLENGING INITIATIVE PETITION C-03-2023** on the parties in said case by placing a true copy thereof enclosed in sealed envelopes with postage prepaid thereon in the United States Post Office mail at 100 West Liberty Street, 10th Floor, Reno, Nevada 89501 addressed as follows:

Bradley S. Schrage, Esq.
Daniel Bravo, Esq.
6675 South Tenaya Way, Suite 200
Las Vegas, NV 89113

Laena St-Jules, Esq.
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717

David R. Fox
Elias Law Group LLP
250 Massachusetts Ave. NW, Suite 400
Washington, DC 20001

I am familiar with the firm's practice for collection and processing of correspondence for mailing with the United States Postal Service.

The envelopes addressed to the above parties were sealed and placed for collection by the firm's messengers and will be deposited today with the United States Postal Service in the ordinary course of business.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 26, 2023 at Reno, Nevada.

By *Tracy Brown*
An employee of McDonald Carano LLP

McDONALD CARANO

2300 WEST SAHARA AVENUE, SUITE 1200 • LAS VEGAS, NEVADA 89102
PHONE 702.873.4100 • FAX 702.873.9966

EXHIBIT 4

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EXHIBIT 4

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28 (issued by Nevada Secretary of State Barbara Cegavske, produced jointly with the Research

1 Division of the Nevada Legislative Counsel Bureau). The First Judicial District Court appointed
2 three special masters to develop maps, which the court ultimately adopted. *Id.* at 408-09. The
3 Legislature did not appropriate specific funds to support the Court’s oversight of the redistricting
4 process prior to it doing so. *See generally* 76th Leg. (Nev. 2011); 77th Leg. (Nev. 2013).

5 Moreover, it is entirely possible that the proposed amendment would decrease the costs
6 of redistricting. The Legislature could decide not to fund the Commission at all, instead making
7 it a volunteer effort.¹ Nothing in the Petition precludes that possibility. Alternatively, even if
8 the Legislature decides to fund it, the Petition could eliminate the possibility of intracycle
9 redistricting. This could reduce the cost of redistricting altogether. Under the current scheme,
10 the Legislature can re-draw the lines as many times as the Legislature deems appropriate. *See*
11 Nev. Const. art. 19, § 5. The Legislature may also redistrict during a special session, further
12 increasing the costs associated with redistricting. Conversely, the Petition provides that the term
13 of each commissioner expires once redistricting is complete. Compl., Ex. 1, Sections 4, 5A.
14 Thus, the Petition provides for uniformity and establishes a single redistricting process for each
15 census cycle. This could decrease redistricting costs by eliminating intracycle redistricting.

16 These facts underscore the point that the Petition does not call for a specific
17 appropriation of any “set amount or percentage.” It certainly does not require any budgeting
18 official to “approve the appropriation or expenditure, regardless of any other financial
19 considerations” as argued by Plaintiff. *Herbst Gaming v. Heller*, 122 Nev. 877, 890, 141 P.3d
20 1224, 1233 (2006) (per curiam). It simply tasks a new entity—the redistricting commission—
21 with performing a function the Nevada Constitution already mandates. Thus, the Petition is
22 distinguishable from *Reid*.

23
24
25 ¹ Notably, the number of free redistricting software packages continues to grow. *See, e.g., District*
26 *Builder, a free and open source redistricting tool*, <https://www.districtbuilder.org> (last accessed
27 Dec. 26, 2023); *Autoredistrict, a free and open source computer program*, <http://autoredistrict.org>
28 (last accessed Dec. 26, 2023); Carl Smith, *Can New Technology Tools Keep Redistricting Honest*
and Fair?, GOVERNING, [https://www.governing.com/now/can-new-technology-tools-keep-](https://www.governing.com/now/can-new-technology-tools-keep-redistricting-honest-and-fair)
[redistricting-honest-and-fair](https://www.governing.com/now/can-new-technology-tools-keep-redistricting-honest-and-fair) (last accessed Dec. 26, 2023).

1 That this Court should reject Plaintiff's assertion of *Reid* as a bar to the Petition is likely
2 obvious. Plaintiff's interpretation calls into doubt numerous constitutional provisions enacted
3 by initiative petition. *See, e.g.*, Nev. Const. art. 1, § 21 (initiative petition recognizing validity
4 of same-sex marriage and requiring the state to process same-sex marriage licenses); Nev. Const.
5 art. 1, § 22 (initiative petition allowing eminent domain proceedings and requiring the
6 government to pay "the highest price the property would bring on the open market"); Nev.
7 Const. art. 2, § 10 (initiative petition limiting campaign contributions and necessitating changes
8 in the campaign finance reporting and compliance system); Nev. Const. art. 4, § 38 (initiative
9 petition allowing the use of medical marijuana and implementing a cannabis compliance and
10 taxation system); Nev. Const. art. 4, § 39 (initiative petition requiring increased usage of
11 renewable energy necessitating changes to the state reporting and compliance structure); Nev.
12 Const. art. 10, § 3 (initiative petition exempting household goods from taxation necessitating
13 changes to tax reporting systems and compliance training process); Nev. Const. art. 10, § 3B
14 (initiative petition exempting durable medical equipment from taxation necessitating changes to
15 state tax reporting systems and compliance training); Nev. Const. art. 11, § 6 (initiative petition
16 establishing the priority of education funding and necessitating sufficient education funding
17 before any other appropriation); Nev. Const. art. 15, § 16 (initiative petition establishing
18 minimum wage increases and necessitating sufficient appropriation to pay state employees).

19 The preclusion of a constitutional amendment seeking to modify an already existing
20 expense only chills the people's initiative power. Such an interpretation flies in the face of well-
21 established policy directives for initiative proposals. Indeed, "the right to initiate change in this
22 state's laws through ballot proposals is one of the basic powers enumerated in this state's
23 constitution." *Univ. Sys. v. Nevadans for Sound Gov't*, 120 Nev. 712, 734, 100 P.3d 179, 195
24 (2004). Thus, the Petition is entirely consistent with other initiative petitions in the Nevada
25 Constitution.

26 That the Petition will require redistricting after the 2026 general election does not change
27 this conclusion. The Legislature has always had the prerogative to redistrict at any time. *See,*
28 *e.g., Legislative Redistricting, in 2018 Political History of Nevada* 401, 401-47. As such, the

1 fact that the Petition will require redistricting after the 2026 general election does not create an
2 “additional” redistricting. As is the case with the other redistricting that will take place, the
3 Petition merely redirects the task of redistricting from the Legislature to the commission. That
4 this is the case is underscored by the fact that the Legislature has redistricted multiple times after
5 a decennial census and before the next decennial census in the past. *See, e.g.*, A.B. 1, 11th
6 Special Leg. (Nev. 1965) (redistricting out of cycle) S.B. 62, 57th Leg. (Nev. 1973) (same);
7 A.B. 375, 72nd Leg. (Nev. 2003) (same).

8 **B. Constitutional Initiative Petitions Should Not Be Subject to Article 19, Section 6 of**
9 **the Nevada Constitution**

10 As the concurrence in *Reid* properly noted, “under the plain language of Article 19, Section
11 6 of the Nevada Constitution, its funding mandate applies only to initiative petitions proposing
12 statutes or statutory amendments, not to initiatives proposing constitutional amendments.” *Reid*,
13 512 P.3d at 306 (Herndon, J., concurring). Section 6 is “unambiguous and clearly singles out
14 two distinct initiative-based actions available to the people: proposals for new statutes and
15 proposals for amendments to existing statutes; while specifically excluding a third initiative-
16 based action available to the people: proposals to amend the constitution.” *Id.* (Herndon, J.,
17 concurring). When a constitutional provision is unambiguous, the court will apply it according
18 to the plain language of the provision. *Nevadans for Nev. v. Beers*, 122 Nev. 930, 942, 142 P.3d
19 339, 347 (2006), *see also In re Resort at Summerlin Litig.*, 122 Nev. 177, 185, 127 P.3d 1076,
20 1081 (2006) (noting when “a general statutory provision and a specific one cover the same
21 subject matter, the specific provision controls”). “Because a state constitution is meant to be a
22 basic set of laws and principles that set out the framework of the state’s government, including
23 a funding provision for each specific basic law and principle within that document would be
24 inappropriate.” *Reid*, 512 P.3d at 307 (Herndon, J., concurring).

25 Ignoring the plain language of Article 19, Section 6 and creating a requirement for ballot
26 initiatives to identify a specific source of funding runs afoul the constitutional right to file ballot
27 questions. *See, e.g.*, Nev. Const. art. 19, § 2. Under Plaintiff’s proposed expansive interpretation
28 of *Reid*, any constitutional petition that increases expenses in any way is invalid. As described

1 above, this reading would invalidate a number of constitutional provisions enacted by initiated
2 petition. This reading also badly misconstrues the Nevada Supreme Court’s prior case law
3 addressing the issue. Prior to *Reid*, the Nevada Supreme Court had *not* concluded that Article
4 19, Section 6 applies to constitutional initiatives. *Reid*, 512 P.3d at 307-08 (distinguishing
5 *Rogers*, 117 Nev. at 173, and *Herbst*, 122 Nev. at 890-91 from *Reid*) (Herndon, J., concurring).

6 **C. The Description of the Petition Is Not Deficient**

7 NRS 295.009(1)(b) requires each initiative petition to “[s]et forth, in not more than 200
8 words, a description of the effect of the initiative . . . if the initiative . . . is approved by the
9 voters.” The Nevada Supreme Court has noted that “[a] description of effect serves a limited
10 purpose to facilitate the initiative process . . .”, *Educ. Initiative PAC v. Comm. To Protect Nev.*
11 *Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013), and that a description of effect should be
12 reviewed with an eye toward that limited purpose, *see id.* Thus, while a description of effect
13 need not “delineate every effect that an initiative will have,” it “must be a straightforward,
14 succinct, and nonargumentative statement of what the initiative will accomplish and how it will
15 achieve those goals.” *Id.* at 38, 293 P.3d at 876. A description of effect cannot “be deceptive
16 or misleading.” *Id.* at 42, 293 P.3d at 879.

17 In reviewing a description of effect, “it is inappropriate to parse the meanings of words and
18 phrases used in a description of effect” as closely as a reviewing court would a statutory text.
19 *Id.* at 48, 293 P.3d at 883. Such an approach “comes at too high a price in that it carries the risk
20 of depriving the people of Nevada of their constitutional right to propose laws by initiative . . .
21 .” *Id.* Thus, a reviewing court “must take a holistic approach” to the required analysis. *Id.*
22 “The opponent of a ballot initiative bears the burden of showing that the initiative’s description
23 of effect fails to satisfy this standard.” *Id.* at 42, 293 P.3d at 879.

24 Plaintiff’s first contention regarding the Description is that it fails to state that the Petition
25 will “result in the expenditure of state funds to fund the Commission.” Op. Br. at 8-9. As
26 discussed herein, the Petition does not require a description of the expenditure because the
27 expenditure is already allocated through existing legislative processes. *See supra*, sections A-
28 B.

1 Plaintiff also contends that the Description should include a statement that the maps drawn
2 by the Legislature in 2021 may be replaced. Op. Br. at 9-10. However, there is no requirement
3 in the Petition that the previously drawn maps should be replaced. The Commission has the
4 option to adopt the same maps previously drawn by the Legislature if the maps comply with the
5 proposed amendment. What the Legislature and Commission may choose to do in the future is
6 not an effect that can be definitively conveyed to voters. Indeed, it is exactly the type of
7 “hypothetical” effect the Nevada Supreme Court has held need not be included in the description
8 of effect. See *Herbst Gaming*, 122 Nev. at 889, 141 P.3d at 1232. Thus, the description in the
9 Petition describes the changes to the redistricting process and “is a straightforward, succinct,
10 and nonargument statement of what the initiative petition will accomplish and how it will
11 achieve those goals.” *Educ. Initiative PAC*, 129 Nev at 38, 293 P.3d at 876.

12 While the Description contained within the Petition is legally sufficient and holistically
13 sound, should this court determine that Fair Maps needs to revise the Description to reference
14 the possibility that the Petition will require an expenditure of state funds or the possibility of
15 2021 maps being revised, Fair Maps may revise the Description in accordance with the Court’s
16 findings. NRS 295.061(3) (clarifying that the proponent of an initiative is afforded the
17 opportunity to amend a description of effect to resolve any inadequacies identified by the court).

18 **D. CONCLUSION**

19 For all of the above reasons, the Court should deny Plaintiff’s attempt to keep the Petition
20 off the ballot and dismiss Plaintiff’s suit.


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AFFIRMATION

The undersigned does hereby affirm that pursuant to NRS 239B.030, the preceding document does not contain the social security number of any person.

Dated this 26th day of December, 2023.

McDONALD CARANO LLP

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD CARANO LLP and that on December 26, 2023, I served the within **ANSWERING BRIEF IN RESPONSE TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CHALLENGING INITIATIVE PETITION C-04-2023** on the parties in said case by placing a true copy thereof enclosed in sealed envelopes with postage prepaid thereon in the United States Post Office mail at 100 West Liberty Street, 10th Floor, Reno, Nevada 89501 addressed as follows:

Bradley S. Schrager, Esq.
Daniel Bravo, Esq.
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Las Vegas, NV 89113

Laena St-Jules, Esq.
Office of the Attorney General
100 North Carson Street
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Washington, DC 20001

I am familiar with the firm's practice for collection and processing of correspondence for mailing with the United States Postal Service.

The envelopes addressed to the above parties were sealed and placed for collection by the firm's messengers and will be deposited today with the United States Postal Service in the ordinary course of business.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 26, 2023 at Reno, Nevada.

By *Nancy Zbrun*
An employee of McDonald Carano LLP

EXHIBIT 5

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EXHIBIT 5

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9 *Attorneys for Plaintiff*

10 **IN THE FIRST JUDICIAL DISTRICT COURT**
11 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

12 ERIC JENG, an individual,
13
14 Plaintiff,

15 vs.

16 FRANCISCO V. AGUILAR, in his
official capacity as NEVADA
17 SECRETARY OF STATE,
18 Defendant

19 and

20 Fair Maps Nevada,
21 Intervenor-Defendant.

Case No.: 23 OC 000138 IB

Dept. No.: II

**REPLY IN SUPPORT OF
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF
CHALLENGING INITIATIVE
PETITION C-03-2023**

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1 Initiative Petition C-03-2023 violates the Nevada Constitution’s prohibition on
2 unfunded mandates by creating a new government body to engage in an inevitably
3 costly redistricting process, without containing any mechanism to raise the necessary
4 funds, and because of fatal flaws in its description of effect. This Court already held
5 in 2020—in a case in which Fair Maps Nevada PAC was a party—that a substantively
6 identical petition would require an expenditure of funds and needed revisions to its
7 description of effect that are missing from the Petition at issue here. Compl. Ex. 3, at
8 4-5. Fair Maps has no answer to that decision, and so simply ignores it. The Court
9 should reach the same conclusions here, and should therefore enjoin the Nevada
10 Secretary of State from taking further action on the Petition.

11 ARGUMENT

12 **A. The Petition fails to fund required expenditures in violation of article** 13 **19, section 6 of the Nevada Constitution.**

14 The Petition is unlawful because it would require the expenditure of public
15 funds to fund the Commission but does not provide for raising the necessary money.
16 The Nevada Constitution prohibits any initiative that “makes an appropriation or
17 *otherwise requires the expenditure of money*, unless such statute or amendment also
18 imposes a sufficient tax, not prohibited by the constitution, or otherwise
19 constitutionally provides for raising the necessary revenue.” Nev. Const. art. 19, § 6
20 (emphasis added).

21 Fair Maps argues that creating the Commission will not require an
22 appropriation because it will not cost money. Answering Br. 4-5. But the Court held
23 to the contrary four years ago with respect to a substantively identical petition,
24 explaining that it would “result in the expenditure of state funds.” *See Jackson v. Fair*
25 *Maps Nevada PAC*, No. 19-OC-002909 1B (Nev. 1st Jud. Dist. Ct. Jan. 2, 2020),
26 Compl. Ex. 3, *aff’d*, No. 80563 (Nev. July 24, 2020), Compl. Ex. 4. Fair Maps fails to
27 grapple with (or even mention) the 2020 holding in its brief, and offers no explanation
28 for why the Court should reach a different conclusion this time around.

1 Issue preclusion bars Fair Maps from relitigating whether the Petition will
2 require an expenditure of funds. Issue preclusion applies where (1) the prior litigation
3 involved “the same fact issue” issue as prior litigation, even if the legal claims are
4 “substantially different,” provided that (2) the prior ruling was on the merits and
5 became final, (3) the party to be precluded was a party to the prior action, and (4),
6 the issue was “actually and necessarily litigated.” *Five Star Cap. Corp. v. Ruby*, 124
7 Nev. 1048, 1053, 1055, 194 P.3d 709 (2008) (quoting *LaForge v. State, Univ. & Cmty.*
8 *Coll. Sys. Of Nev.*, 116 Nev. 415, 421, 997 P.2d 130 (2000)). Each of those factors is
9 met here. The Petition is substantively identical to the petition at issue in the 2020
10 case, so the question whether it will require an expenditure of state funds is “the
11 same fact issue” decided there. *Id.* at 1053. The 2020 ruling was on the merits and
12 became final after the Supreme Court’s affirmance. *See* Compl. Exs. 3, 4. Fair Maps
13 was a defendant in the prior action and is an intervenor-defendant here. *See id.* And
14 the issue was actually and necessarily litigated, because the complaint and briefing
15 in the 2020 case argued that the petition would require state funding, and the Court
16 so held when it ordered the description of effect revised to say so. *See Exhibit 1*, a
17 true and accurate copy of the Opening Br. in Supp. of Compl. for Declaratory &
18 Injunctive Relief, *Jackson v. Fair Maps Nevada PAC*, No. 19-OC-002909 1B (Nev. 1st
19 Jud. Dist. Ct. Nov. 26, 2019).

20 Preclusion aside, the Petition undeniably requires funding in violation of
21 article 19, section 6, because it creates a new government body to engage in a costly,
22 time-consuming process without providing any means of funding it. Fair Maps offers
23 three contrary arguments, but each fails.

24 *First*, the existing “general appropriation to fund the Legislature’s business”
25 that funds the *Legislature’s* redistricting activities will not help fund the new
26 Commission that the Petition would create. Answering Br. 4. The Petition is explicit
27 that the “Independent Redistricting Commission” is a new body, created by the
28 Petition for the first time, whose members *cannot* be current legislators. Compl. Ex.

1 1, at 2. That the Legislature has an existing funding stream to carry out its own
2 activities will do nothing to help fund the activities of the new body, with different
3 members, that the Petition would create.

4 Moreover, the necessary funding will likely be substantial. Fair Maps argues
5 that it could be a “volunteer effort” but points to no example from anywhere in which
6 redistricting has been carried out for free. To the contrary, redistricting commissions
7 in other states have required millions of dollars in state funding. Compl. ¶¶ 19-22.
8 And the Nevada Legislature, too, has spent substantial funds on redistricting when
9 it has done so in the past.¹ At a minimum, it will cost money to recruit, identify, and
10 vet the Commission’s members, and the Commission will need to analyze the maps,
11 consider its options, hold public hearings, and ensure it complies with nine specific
12 criteria identified in the Petition. See Compl. Ex. 1.

13 *Second*, redistricting by the Nevada courts in 2011 is not a template for
14 redistricting by the Commission. The Nevada courts, of course, are an existing
15 government body with an existing source of funding. In contrast, the Commission will
16 be a new body that is not already funded and will require an appropriation of funds.
17 Moreover, the need for the courts to become involved in redistricting in 2011 was not
18 the result of an initiative petition, and therefore was not subject to the restrictions in
19

20 ¹ The Legislature relies on a fully staffed and salaried Committee to Conduct
21 an Investigation into Matters Relating to Reapportionment and Redistricting in
22 Nevada. See **Exhibit 2**, a true and accurate copy of the Nevada Legislature webpage
23 identifying staff members of the Committee to Conduct an Investigation into Matters
24 Relating to Reapportionment and Redistricting in Nevada. Further, the Committee
25 to Conduct an Interim Study of the Requirements for Reapportionment and
26 Redistricting recommended redistricting software that costs money, including
27 AutoBound by Citygate GIS, which is estimated to fall in the range of \$53,000-67,000.
28 See **Exhibit 3**, a true and accurate copy of the Legislative Counsel Bureau’s
presentation on Redistricting Software Options. The Legislative Commission
purchased the AutoBound software and any necessary hardware under the 2021
Session Budget. See **Exhibit 4**, a true and accurate copy of the May 27, 2020
Summary Minutes of the Nevada Legislature Committee to Conduct an Interim
Study of the Requirements for Reapportionment and Redistricting in the State of
Nevada.

1 article 19, section 6 in any event.

2 *Third*, concluding that the Petition violates article 19, section 6 would be
3 consistent with prior initiative petitions. Fair Maps argues that other petitions have
4 been adopted that similarly required, but did not provide for, funding. But none of
5 those other petitions is analogous because each either tasked an existing government
6 body or entity with activities already within its purview, Nev. Const. art. 1, § 21, *id.*
7 art. 2, § 10, *id.* art. 4, §§ 38-39, *id.* art. 10, §§ 3, 3b, *id.* art. 11, § 6, or imposed at most
8 incidental costs to maintain or adjust an existing process, Nev. Const. art. 4, § 39, *id.*
9 art. 10, §§ 3, 3b, *id.* art. 11, § 6, *id.* art. 15, § 16, *id.* art. 1, § 22. Some of the examples
10 merely set priorities or impose conditions in the event that an existing government
11 entity decided to do something, Nev. Const. art. 11, § 6, *id.* art. 1, § 22. The Petition,
12 in contrast, creates an entirely new body to carry out a mandatory task.

13 **B. Well-established law indicates that constitutional initiative petitions**
14 **must comply with article 19, section 6.**

15 The Nevada Supreme Court has held that “regardless of whether the initiative
16 petition is proposing statutory or constitutional changes, if the initiative petition
17 requires expenditures or appropriations, it must include funding provisions.” *Educ.*
18 *Freedom PAC v. Reid*, C, 138 Nev. Adv. Op. 47, 512 P.3d 296, 303 (Nev. 2022). Fair
19 Maps encourages this Court to ignore binding precedent and cites the concurrence in
20 *Reid* to argue that its unconstitutional Petition should withstand this Court’s
21 scrutiny because the Petition is a constitutional initiative, not a statutory one. But
22 the controlling majority opinion holds to the contrary. *Reid*’s clear holding is bolstered
23 by the Nevada Supreme Court’s consistent prior decisions that “[s]ection 6 applies to
24 *all* proposed initiatives, without exception, and *does not permit* any initiative that
25 fails to comply with the stated conditions.” *Rogers v. Heller*, 117 Nev. 169, 173, 18
26 P.3d 1034 (2001) (per curiam); *see also Herbst Gaming, Inc. v. Heller*, 122 Nev. 877,
27 890-91 (2006) (recognizing that article 19, section 6 “prevents the electorate from
28 creating the deficit that would result if government officials were forced to set aside

1 or pay money without generating the funds”—a purpose which is only achieved if the
2 requirement applies to all initiative petitions).

3 **C. The Petition’s description of effect is legally insufficient.**

4 The Petition’s description of effect is legally insufficient because it fails to
5 include the fact that the Petition will result in an expenditure of funds—a material
6 fact that the First Judicial District Court held must be included in the description of
7 the materially identical 2019 petition. Ex. 3, at 4–5. Fair Maps ignores this holding
8 and fails to articulate how the Court can overlook the Petition’s deficiency despite
9 this holding.

10 **CONCLUSION**

11 The Petition is legally deficient, and Plaintiff’s requested relief should be
12 granted.

13 **AFFIRMATION**

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

16 DATED this 3rd day of January, 2024.

17 BRAVO SCHRAGER LLP

18 By: 

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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of January, 2024, a true and correct copy of the **REPLY IN SUPPORT OF MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CHALLENGING INITIATIVE PETITION C-03-2023** was served upon all parties via U.S.P.S. Mail, Las Vegas Nevada and via electronic mail as follows:

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Exhibit 1

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Exhibit 1

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6
7 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR CARSON CITY**

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10
11 **REV. LEONARD JACKSON,**
12 **Plaintiff,**

13 **v.**

14 **FAIR MAPS NEVADA PAC, and**
15 **BARBARA CEGAVSKE, in her official**
16 **capacity as Nevada Secretary of State,**
17 **Defendants.**

Case No.: 1902 00209 B
Dept. No.: #

**OPENING BRIEF IN SUPPORT OF
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

18
19 Plaintiff, Rev. Leonard Jackson, by and through counsel, Kevin Benson, Esq. of BENSON
20 LAW, LLC, seeks declaratory and injunctive relief against Defendants that the Redistricting
21 Commission Initiative Petition does not comply with the requirements of state law and therefore
22 cannot appear on the general election ballot for 2020.

23 **I. FACTS**

24 On November 4, 2019, Sondra Cosgrove, in connection with Defendant Fair Maps Nevada
25 PAC, filed a constitutional initiative petition designated as #C-02-2019 by the Secretary of State. The
26 initiative petition seeks to amend the Nevada Constitution to require that redistricting be performed
27 by a commission rather than by the Legislature ("the Petition"). The Petition proposes to add a new
28

1 Section 5A to Article 4, Section 5 of the Nevada Constitution, which would be titled:
2 “Apportionment; Creation of Independent Redistricting Commission.” Petition, Section 5A.¹

3 The Petition would create the “Independent Redistricting Commission” (“Commission”)
4 within the legislative branch of state government. Petition, Section 5A(1). Starting in the year 2023,
5 the Commission would apportion the number of Senators and Assemblymen among the state
6 legislative districts and would apportion the number of representatives to the United States House of
7 Representatives among the congressional districts. *Id.*

8 The Commission would consist of seven members. Petition, Section 5A(2). The Senate
9 Majority Leader, Senate Minority Leader, Speaker of the Assembly, and Assembly Minority Leader
10 each appoint one commissioner. *Id.* These four commissioners appoint three additional
11 commissioners, each of whom has not been registered or affiliated with either of the two largest
12 political parties in the State within the last four years, and is not registered or affiliated with the same
13 political party as another commissioner. *Id.*

14 Additionally, a commissioner cannot, within the four years preceding appointment and during
15 their term on the Commission, be a registered lobbyist, a candidate for partisan office, an elected
16 official to a partisan office, an officer or member of the governing body of a political party, a paid
17 consultant or employee of a partisan elected official, candidate, PAC, or caucus, an employee of the
18 Legislature or the State of Nevada (except employees of the judicial branch, the armed forces, or a
19 state institution of higher education). Petition, Section 5A(3). Nor may a commissioner be related
20 within the third degree of consanguinity or affinity to any such individual. *Id.*

21 All meetings of the Commission must be open to the public and the Commission shall ensure
22 that the public has the opportunity to view, present testimony, and participate in the hearings before
23 the Commission. All Commission materials shall be public records. Petition, Section 5A(5).

24 The Commission shall adopt a redistricting plan not later than July 1, 2023, and thereafter not
25 later than 180 from the release of the decennial census. Petition, Section 5B(2).

26
27

¹ Unless otherwise noted, the citations to the text of the Petition are to the *proposed* constitutional section and subsection
28 numbers in Section 2 of the Petition.

1 A final plan requires five affirmative votes, including votes from at least one commissioner
2 from each of the two largest political parties and one commissioner not registered or affiliated with
3 either of those parties. *Id.*

4 The Commission must draw districts according to certain criteria, and must apply those criteria
5 in the order listed in the Petition. Petition, Section 5B(1). These criteria include ensuring that, on a
6 statewide basis, the districts “do not unduly advantage or disadvantage a political party.” *Id.* The last
7 criteria that the Commission may consider is the number of politically competitive districts. *Id.*

8 The Description of Effect of the Petition states in full:

9 This measure will amend the Nevada Constitution to establish an Independent Redistricting
10 Commission to oversee the mapping of fair and competitive electoral districts for the
11 Nevada Senate, Nevada Assembly, and U.S. House of Representatives.

12 The Commission will consist of seven Nevada voters, four who will be appointed by the
13 leadership of the Nevada Legislature, and three who are unaffiliated with the two largest
14 political parties who will be appointed by the other four commissioners. Commissioners
15 may not be partisan candidates, lobbyists, or certain relatives of such individuals. All
16 meetings of the Commission shall be open to the public who shall have opportunities to
17 participate in hearings before the Commission.

18 The Commission will ensure, to the extent possible, that the electoral districts comply with
19 the United States Constitution, have an approximately equal number of inhabitants, are
20 geographically compact and contiguous, provide equal opportunities for racial and
21 language minorities to participate in the political process, respect areas with recognized
22 similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or
23 historic identities, do not unduly advantage or disadvantage a political party, and are
24 politically competitive.

25 This amendment will require redistricting by the Commission beginning in 2023 and
26 thereafter following each federal census.

27 Petition, p. 3, Description of Effect.

28 II. ARGUMENT

A. Legal Standard for the Description of Effect.

NRS 295.009(1)(b) requires that every initiative “[s]et forth, in not more than 200 words, a
description of the effect of the initiative or referendum if the initiative or referendum is approved by
the voters.” The purpose of the description of effect is to “prevent voter confusion and promote
informed decisions.” *Nevadans for Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006).

1 The description of effect must appear on every signature page. NRS 295.009(1)(b). Thus “[t]he
2 importance of the description of effect cannot be minimized, as it is what the voters see when
3 deciding whether to even sign a petition.” *Coal. for Nev.’s Future v. RIP Commerce Tax, Inc.*, No.
4 69501, 2016 Nev. Unpub. LEXIS 153, at *5 (May 11, 2016) (unpublished decision – NRAP 36(c),
5 citing *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876
6 (2013) and *Las Vegas Taxpayer Accountability Comm. v. City Council*, 125 Nev. 165, 177, 208 P.3d
7 429, 437 (2009)).

8 For that reason, the description of effect “must be a straightforward, succinct, and
9 nonargumentative summary of what the initiative is designed to achieve.” *Educ. Initiative*, 129 Nev.
10 at 37, 293 P.3d at 876. The district court must also analyze “whether the information contained in the
11 description is correct and does not misrepresent what the initiative will accomplish and how it intends
12 to achieve those goals.” *Id.*, 129 Nev. at 35. 293 P.3d at 883.

13 **B. The Description of Effect inaccurately states that the Commission would be**
14 **“independent,” and therefore is misleading.**

15 The first sentence of the Petition’s description of effect states in relevant part: “This measure
16 will amend the Nevada Constitution to establish an **Independent** Redistricting Commission.”
17 (Emphasis added.) However, the Commission is not independent, thus that statement is inaccurate
18 and seriously misleading. The Commission is not independent for two main reasons: its composition
19 and its funding.

20 1. **The Commission is not independent because legislative leadership would directly**
21 **appoint a majority of the commissioners.**

22 First, a majority of the Commission is directly appointed by the major parties’ legislative
23 leadership. Petition, Section 5A(2). The Petition prohibits certain politically-active people from
24 serving as commissioners. *See* Petition, Section 5A(3) (prohibiting from serving those who in the
25 previous four years have been partisan candidates or elected officials, lobbyists, most state
26 employees, paid political staff, etc., and their close relatives). These exclusions only prevent a certain
27 sub-set of politically-involved people from serving on the Commission. For example, it does not
28 prevent a legislator from appointing a campaign volunteer, nor does it prevent county commissioners

1 or city council members from being appointed. The exclusions do not create independence because
2 the appointments are still directly made by legislative leadership. Thus the exclusions do nothing to
3 ensure that appointees are insulated from political pressures, are not beholden to the legislative
4 leadership, and do not stand to gain personally or politically from serving on the Commission.

5 The composition and selection of the Commission as proposed in the Petition is contrary to
6 truly “independent” redistricting commissions that have been adopted in other states. Four other
7 states have given primary redistricting responsibility to independent commissions. In each of them,
8 the independence of the commissioners is ensured by having a body *other than* the legislative
9 leadership either appoint the commissioners directly, or create the pool from which commissioners
10 are chosen.

11 In Arizona, the commission on appellate court appointments creates an initial pool of 25
12 nominees, ten from each of the two largest parties, and five not from those two parties. Ariz. Const.
13 art. IV, pt. 2, § 1(4), (5). Legislative leadership can only appoint commissioners from this pool. *Id.* at
14 (6).

15 In Colorado, a panel of three retired appellate court justices or judges randomly select
16 nominees from all applicants who meet the minimum qualifications, then the panel creates pools for
17 each of the two major parties and for nonpartisans. Colo. Const. Art. V, Section 44.1. Applicants are
18 selected based on, among other things, their experience, analytical skills, and ability to remain
19 impartial. *Id.* at 44.1(8)(1),(2). The panel of judges must ensure that the commission reflects
20 Colorado’s racial, ethnic, gender, and geographical diversity. *Id.* at 44.1(10). Legislative leadership
21 can choose sub-pools from their respective party’s pool, but ultimately the panel of retired judges
22 make the final selection. *Id.* at 44.1(8)-(10).

23 In California, Proposition 11 of 2008 amended the California Constitution to create the
24 Citizens Redistricting Commission. That amendment expressly states: “The selection process is
25 designed to produce a commission that is independent from legislative influence and reasonably
26 representative of this State’s diversity.” Cal. Const. Art. XXI, Section 2(c)(1). Government auditors
27 create a pool from the qualified applicants. Cal. Govt. Code § 8252. Legislative leadership can reduce
28 the pool, but then the auditors pick a majority of the commissioners by lottery, and those

1 commissioners appoint additional commissions from the remaining members of the pools, who form
2 a minority of the commission. *Id.*

3 In Michigan, the secretary of state must make the application to serve as a commission widely
4 available to the general public in all areas of the state. Mich. Const., Art. IV, § 6. The secretary of
5 state must also mail 10,000 applications to randomly selected voters. *Id.* The secretary of state then
6 creates the pools by randomly selecting from the qualified applicants, but shall also use accepted
7 statistical methods to ensure that the pool represents the geographical and demographic diversity of
8 the state. *Id.* Similar to California, legislative leadership can reduce the pools by striking a certain
9 number of names, but the secretary of state, by lottery, makes the final selections of commissioners
10 from the remaining pool. *Id.*

11 Additionally, most states prohibit commissioners from running for partisan office or being
12 appointed to an office or government employment for a certain period of time *after* serving on the
13 commission. *See e.g.*, Ariz. Const. art. IV, pt. 2, § 1(13) (ineligible for public office and cannot be a
14 paid lobbyist for three years after serving); Cal. Const. Art. XXI, Section 2(c)(6) (ineligible for office
15 for 5 to 10 years, depending on the office); Mich. Const. Art. IV § 6(1)(e). This reduces the incentive
16 for commissioners to draw maps that would favor their own future political ambitions.

17 By contrast, the Petition in this case: (1) allows legislative leadership to directly appoint a
18 majority of the Commission; (2) allows the commissioners to run for an office for which they just
19 finished drawing new districts; and (3) allows the commissioners to be appointed to an office or any
20 other government position immediately after completing redistricting. Thus the Petition permits
21 substantial political influence over individual commissioners and the Commission itself. Nor does the
22 Petition prevent individual commissioners from acting solely for their own political interests.

23 2. The Commission is not independent because it has no independent funding.

24 Redistricting is an expensive and difficult process. *See* "Reapportionment and Redistricting,"
25 Legislative Counsel Bureau Bulletin No. 11-04 (January 2011).² It requires a huge amount of data,
26 staff with technical expertise, and specialized software. *Id.* Additionally, the Commission would

27
28 ² Available at: <https://www.leg.state.nv.us/Division/Research/Publications/InterimReports/2011/Bulletin11-04.pdf>

1 require administrative staff to manage its materials, schedule, notice, and hold its meetings, and
2 respond to requests and input from the public. The Commission will also need legal guidance to
3 ensure that it complies with the Voting Rights Act and other federal requirements, as well as the
4 requirements in the Petition.

5 Despite these substantial costs, the Petition does not provide for any funding or funding
6 mechanism for the Commission. In fact, the Petition does not require that the Commission be funded
7 at all. Again, this contrasts starkly with truly independent commissions in other states.

8 For example, the Michigan Constitution mandates that the legislature shall fund the
9 commission, and sets forth a formula for the amount. It states: “the legislature shall appropriate funds
10 sufficient to compensate the commissioners and to enable the commission to carry out its functions,
11 operations and activities, which activities include retaining independent, nonpartisan subject-matter
12 experts and legal counsel, conducting hearings, publishing notices and maintaining a record of the
13 commission's proceedings, and any other activity necessary for the commission to conduct its
14 business, **at an amount equal to not less than 25 percent of the general fund/general purpose**
15 **budget for the secretary of state for that fiscal year.”** Mich. Const. Art. IV § 6(5) (emphasis
16 added).

17 Other states have similar language, and also mandate that the legislature fund the commission
18 adequately to ensure that it can carry out its duties.

19 California requires that the legislature appropriate funds for the commission according to a
20 formula, but in no event less than \$3 million for each cycle of redistricting. Cal. Govt. Code. §
21 8253.6.

22 The Arizona Constitution similarly requires that the legislature fund the commission, and
23 mandates that it be appropriated \$6 million for its first year of operation. Ariz. Const. Art. 4, Part 2,
24 Section 1(18). The commission has express authority to challenge the sufficiency of the funding
25 appropriated. *Id.*

26 The Legislature is the branch of government that holds the purse strings. *State Emps. Ass'n v.*
27 *Daines*, 108 Nev. 15, 21, 824 P.2d 276, 279 (1992). As such, it has tremendous power to control the
28 Commission by deciding whether, when, how much, and for what purposes to appropriate money for

1 the Commission. Likewise, it can direct the Legislative Counsel Bureau whether or not provide
2 assistance to the Commission. *See* NRS 218F.110 (LCB staff hired and duties defined pursuant to
3 budget approved by Legislative Commission).

4 In the context of the separation of powers doctrine, the Nevada Supreme Court has recognized
5 that the judiciary cannot truly function as an independent branch of government if it is not able to
6 require the disbursement of funds necessary to carrying out its basic duties. *State ex rel. Harvey v.*
7 *Second Judicial Dist. Ct.*, 117 Nev. 754, 770, 32 P.3d 1263, 1273 (2001). Similarly here, the
8 Commission cannot operate independently of the Legislature if it has no independent control of the
9 funding necessary to perform its duties. Indeed, the problem is exacerbated in this case because the
10 Petition declares the Commission to be part of the legislative branch and to be executing legislative
11 powers. Petition, Section 5A(7). That raises the question of whether it would itself be a violation of
12 the separation of powers doctrine should a court attempt to order the Legislature to fund the
13 Commission, or fund it in any particular way or amount. *Cf.* Ariz. Const. Art. 4, Part 2, Section 1(18)
14 (expressly granting the commission standing in court and the power to challenge the adequacy of its
15 funding).

16 3. The Description of Effect is inaccurate and misleading because the Commission is
17 not “independent.”

18 “[A]n initiative petition signer must be informed at the time of signing of the nature and effect
19 of that which is proposed. Failure to so inform the signatories and voters is deceptive and
20 misleading...” *Stumpf v. Lau*, 108 Nev. 826, 833, 839 P.2d 120, 124 (1992) (internal quotations
21 omitted).

22 The Petition’s Description of Effect states that the Petition would establish an “independent”
23 redistricting commission. The Description of Effect is invalid because it would mislead voters into
24 believing that the Commission is independent from the political influence of the Legislature and other
25 officials, when in fact it is not.

26 As discussed above, the Commission is not “independent” because a majority of the
27 Commission is directly appointed at the sole discretion of the legislative leadership. Additionally, the
28 Petition does not prevent Commissioners from running for or being appointed to an office

1 immediately after redistricting is complete. Finally, the Petition does not require that the Commission
2 be funded. Consequently, the Legislature will be able to exercise substantial, if not total, control over
3 the Commission by determining whom to appoint and how or whether to fund the Commission.

4 This case is closely analogous to *Las Vegas Taxpayer Accountability v. City Council of Las*
5 *Vegas*, 125 Nev. 165, 183-84, 208 P.3d 429, 441 (2009). In that case, the description of effect stated
6 that the petition would prevent the redevelopment agency from undertaking any *additional*
7 redevelopment projects in a certain area. *Id.* However, the actual effect of the petition would be to
8 stop *all* redevelopment projects, including those already underway. *Id.* The court held that the
9 description of effect was inaccurate and materially misleading and it invalidated the petition. *Id.*

10 In this case, the Description of Effect states that the Commission will be “independent,” but
11 the text of the Petition itself shows that to be an inaccurate statement of the Petition’s effect. Like in
12 *Taxpayer Accountability*, that inaccuracy renders the Description of Effect materially misleading
13 because the independence of the Commission is a critical factor for voters in determining whether to
14 support to the Petition. Accordingly, this Petition therefore violates NRS 295.009(1)(b) and cannot be
15 placed on the ballot.

16 **C. The Description of Effect inaccurately states that the Commission will create “fair**
17 **and competitive” districts.**

18 The U.S. Supreme Court recently held, again, that partisan gerrymandering presents a non-
19 justiciable political question. *Rucho v. Common Cause*, 139 S. Ct. 2484, 2506-07 (June 27, 2019).
20 Accordingly, the federal laws and the U.S. Constitution do not provide voters with any relief from
21 unfair partisan gerrymanders. The Petition’s Description of Effect represents that it will end partisan
22 gerrymandering in Nevada by creating “fair and competitive electoral districts.” But this is a promise
23 it cannot and will not keep. The Description of Effect is materially misleading because in fact the
24 Petition requires neither fairness nor competitiveness.

25 The Petition sets forth various criteria that the Commission must use when creating districts.
26 *See* Petition, 5B(1). The Petition states that the criteria must be followed in the order listed in the
27 Petition. *Id.* Most of these criteria reflect the general federal requirements to comply with the Voting
28 Rights Act and the one-person, one-vote doctrine. *See id.* In addition to these minimum requirements,

1 the Petition states that the Commission should ensure that the districts “do not unduly advantage or
2 disadvantage a political party.” *Id.* By use of the term “unduly,” it is clear that the Petition is designed
3 and intended to tolerate **un**fairness between the political parties. The Petition sets forth no definitions
4 or mechanism for determining when a party is “unduly” advantaged or disadvantaged. There will
5 obviously be disagreement on that question, and the lack of any guidelines leaves every plan open to
6 being challenged through litigation.

7 The Petition also invites other types of unfairness, besides partisan bias. The Petition contains
8 no requirements that the Commissioners fairly represent Nevada’s racial, language, ethnic, gender,
9 geographic, or demographic diversity. All of the Commissioners could be white, male, wealthy
10 residents of Las Vegas, for example. This would leave all other Nevadans without any formal
11 representation in drawing districts that, among other things, are supposed to keep communities intact,
12 while also ensuring that minorities retain their political voice.

13 Finally, partisan competitiveness is the very *last* of the criteria that the Commission is to
14 consider when drawing districts. The Petition provides that the criteria must be applied in the order
15 presented, so competitiveness will always be the last item considered. Petition, 5(B)(1). The Petition
16 in fact expressly makes competitiveness subordinate to all other criteria. *Id.* And most importantly,
17 the Petition does not even require that the Commission create competitive districts, and instead
18 instructs it to “consider” competitiveness “to the extent practicable.” *Id.*

19 In conclusion, the Description of Effect is inaccurate and materially misleading because it
20 states that the Commission will create “fair and competitive electoral districts,” but the Petition does
21 not in fact require “fairness,” nor does it require “competitive” districts. Voters will therefore be
22 misled into believing that the Petition will prevent partisan gerrymandering and that the Commission
23 will create truly fair and nonpartisan maps, when it actually need not do so.

24 **D. The Description of Effect is Invalid Because it Fails to Inform Voters of the Cost of**
25 **the Commission.**

26 As described above, the Petition does not provide for funding or any funding source for the
27 Commission. But in order to operate, the Commission necessarily needs funding. Redistricting is
28 complex and expensive, requiring specialized software and often involving special experts to analyze

1 the data. *See* LCB Bulletin No. 11-04, *supra* at 6. As described above, other states expressly require
2 the legislature to fund the commission, and typically set forth a formula intended to ensure that the
3 funding is adequate. Several years ago, California set a baseline of \$3 million, while Arizona used a
4 baseline of \$6 million.

5 However, the Description of Effect fails to describe any of these costs, nor does it notify voters
6 of these costs. Furthermore, the Petition is likely to generate more litigation over the validity of the
7 maps drawn by the Commission, because it states that no political party should be “unduly”
8 advantaged or disadvantaged, but provides no guidelines, safe harbors, or other mechanism for the
9 parties or the courts to evaluate when that criterion has been satisfied or when it has been violated.
10 This type of litigation will further increase the costs of redistricting.

11 Additionally, the Description of Effect fails to inform voters that the Commission will “undo”
12 whatever maps are drawn by the Legislature in 2021. The Description of Effect states that the
13 Commission will begin drawing maps in 2023, but fails to describe the practical consequence: that
14 the Legislature will have just drawn new districts 2021, which will only be operative for the 2022
15 election, and then the Commission will immediately start redrawing the maps. Thus the State will
16 potentially spend twice the resources (or more) as it would normally on redistricting efforts in the
17 three-year period following the 2020 census.

18 In *Coal. for Nev.'s Future v. RIP Commerce Tax, Inc.*, No. 69501, 2016 Nev. Unpub. LEXIS
19 153, at *5 (May 11, 2016) (unpublished decision – NRAP 36(c)), the Nevada Supreme Court held
20 that a referendum’s description of effect was deceptive because it failed to inform voters of its
21 practical consequences. The referendum’s description of effect accurately summarized the *legal*
22 effect it would have: it would repeal the commerce tax. *Id.* at *9-10. However, the description of
23 effect contained no description of the *practical* consequences of repealing the commerce tax, which
24 would be to unbalance the state budget for the biennium. *Id.* The court therefore held that the
25 referendum’s “description is deceptive for failing to accurately identify the practical ramification of
26 the commerce tax's disapproval.” *Id.*

27 It is not enough for a petition’s description of effect to merely recite or summarize the
28 petition’s language. *See id.*; *Prevent Sanctuary Cities v. Haley*, 421 P.3d 281, No. 74966, 2018 Nev.

1 Unpub. LEXIS 442, at *9-10 (May 16, 2018) (unpublished decision – NRAP 36(c)). The purpose of
2 the description of effect is to inform the voters of the practical ramifications of the petition. Failure to
3 do so renders the description of effect deceptive and misleading.

4 Like in *RIP Commerce Tax* and *Prevent Sanctuary Cities*, the Petition’s Description of Effect
5 simply repeats the language of the Petition without actually informing voters of the Petition’s real
6 consequences. These practical consequences include at potentially doubling the cost of redistricting
7 for the 2020 census, and failing to inform voters that the Commission will require substantial
8 taxpayer funding to carry out its duties. Therefore, like the petitions in *RIP Commerce Tax* and
9 *Prevent Sanctuary Cities*, the Petition must be declared invalid for failure to comply with NRS
10 295.009(1)(b).

11 III. CONCLUSION

12 For the reasons discussed above, Plaintiff respectfully requests that the Court enter an order:

- 13 1. Declaring that the Petition does not comply with NRS 295.009(1)(b) and is therefore
14 invalid;
- 15 2. Prohibiting the Secretary of State from placing the Petition on any ballot; and,
- 16 3. Granting any other relief the Court deems just.

17 Dated this 26th day of November, 2019.

18
19 BENSON LAW, LLC

20
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Exhibit 2

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Exhibit 2

Interim Committees (/App/InterimCommittee/REL/Interim2021)
/ Committees (/App/InterimCommittee/REL/Interim2021/CommitteeList) / Legislative Interim Studies
/ Committee to Conduct an Investigation into Matters Relating to Reapportionment and Redistricting in Nevada

Committee to Conduct an Investigation into Matters Relating to Reapportionment and Redistricting in Nevada (SCR13 (<https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/8218/Overview>))

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Exhibit 3

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Exhibit 3



REDISTRICTING SOFTWARE OPTIONS

May 27, 2020

Connecting People to Policy

Website: <http://www.citygategis.com/products/autobound>

Desktop Application	Online Application	Staff Familiarity	Support	Pricing
<ol style="list-style-type: none"> Built-in Census Data import tool that allows staff to begin processing data when Census releases it. Citygate GIS will also process and import data within 3-4 days. Includes most recent American Community Survey (ACS) population data estimates that can be used for redistricting projections now while waiting for Census data. Create plans from scratch or existing plan with multiple assignment methods and advanced boundary editing tools. Active matrix Excel spread sheet for displaying and computing district statistics. Tools for compactness measurements and contiguity analysis. Imports and disaggregates election results. Export plans as GIS shapefiles, standard equivalency file formats, and Google Earth files. Complete report writing system. 	<p>Mydistricting.com</p> <ol style="list-style-type: none"> Web-based redistricting designed specifically for members of the public. Users can create account and login on any device with internet connection. Supported on both Windows and Linux systems and all modern browsers. Easy to use and learn, based on Google Maps. Import/Export tools and report tools. Plan sharing and public commenting tool. Available as perpetual license or monthly service. 	<p>Desktop application used during 2001 and 2011 redistricting.</p> <p>High comfort level with staff and great relationship with vendor.</p>	<p>Support during 2001 and 2011 redistricting was outstanding—widely available, even outside of regular business hours.</p> <p>\$5,500 per year.</p>	<p>\$53,000 - \$67,000</p> <p>Average price per license decreases as more licenses are purchased or if Mydistricting.com is bundled.</p> <p>Option 1: \$53,000</p> <ul style="list-style-type: none"> 9 desktop licenses (including one year of support): 2 for LCB staff, 4 for session hires, 1 for NSHE, and 2 for public workstations <p>Option 2: \$67,000</p> <ul style="list-style-type: none"> 7 desktop licenses (including one year of support): 2 for LCB staff, 4 for session hires, and 1 for NSHE Perpetual Mydistricting.com license for public workstations (and available anywhere through internet connection) <p>Option 3: \$63,000</p> <ul style="list-style-type: none"> 7 desktop licenses (including one year of support): 2 for LCB staff, 4 for session hires, and 1 for NSHE 2-month Mydistricting.com license for public workstations (and available anywhere through internet connection)

B. Maptitude by Caliper Corporation

Website: <https://www.caliper.com/mtredlist.htm>

Desktop Application	Online Application	Staff Familiarity	Support	Pricing
<ol style="list-style-type: none"> 1. Caliper processes and provides Census data within 48 hours of release. 2. Create plans from scratch or existing plan with multiple assignment methods. 3. Active matrix that displays district statistics. 4. Tools for compactness measurements and contiguity analysis, including travel contiguity. 5. Imports and disaggregates election results. 6. Export plans as GIS shapefiles, standard equivalency file formats, and Google Earth files. 7. Complete report writing system. 	<p>Mapitude Online Redistricting</p> <ol style="list-style-type: none"> 1. Web-based redistricting designed specifically for members of the public. 2. Users can create account and login on any device with internet connection. 3. Supported on both Windows and Linux systems and all modern browsers. 4. Similar in complexity to desktop application. 5. Import/Export tools and report tools. 6. Available as 12-month license. 	<p>No previous experience with software.</p>	<p>By phone or email during regular business hours (EST).</p> <p>One year of support included in license cost.</p>	<p>\$72,000 - \$116,000</p> <p>Fixed cost of \$8,000 per license and \$60,000 for Maptitude Online Redistricting.</p> <p>Option 1: \$72,000</p> <ul style="list-style-type: none"> • 9 desktop licenses (including one year of support) <p>Option 2: \$116,000</p> <ul style="list-style-type: none"> • 7 desktop licenses (including one year of support) • Maptitude Online Redistricting license for one year

C. Esri Redistricting by Esri* Website: <https://www.esri.com/en-us/arcgis/products/esri-redistricting/overview>

*For consideration for public redistricting software licenses only

Desktop Application	Online Application	Staff Familiarity	Support	Pricing
N/A	<ol style="list-style-type: none"> 1. Web-based software—no installation needed. 2. Users can create account and login on any device with internet connection. 3. Esri processes and provides census data. 4. Create plans from scratch or existing plan with multiple assignment methods. 5. Integrity checks for compactness and contiguity. 6. Reporting and thematic mapping. 7. Plan and user management and security. 8. Import/Export tools. 9. Available as 12-month license. 	Based on Esri's ArcGIS software platform that is actively being used by staff now.	<p>24/7 technical and operational support.</p> <p>One year of support included in license cost.</p>	<p>\$9,000 - \$140,000 (plus 7 desktop licenses from autoBound or Maptitude)</p> <p>Option 1: \$9,000</p> <ul style="list-style-type: none"> • Two individual web-based licenses for public workstations • Supports 2 concurrent users <p>Option 2: \$107,000</p> <ul style="list-style-type: none"> • On-Premise server installation • Supports up to 100 concurrent users • Accessible through public workstations or any device with internet connection <p>Option 3: \$140,000</p> <ul style="list-style-type: none"> • Managed Cloud Services • Supports up to 100 concurrent users • Accessible through public workstations or any device with internet connection

Exhibit 4

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Exhibit 4



**NEVADA LEGISLATURE
COMMITTEE TO CONDUCT AN INTERIM STUDY OF
THE REQUIREMENTS FOR REAPPORTIONMENT AND
REDISTRICTING IN THE STATE OF NEVADA**
([Senate Concurrent Resolution 9](#) [SCR] [2019])

**SUMMARY MINUTES
May 27, 2020**

The second meeting of the Committee to Conduct an Interim Study of the Requirements for Reapportionment and Redistricting for the 2019–2020 Interim was held on Wednesday, May 27, 2020, at 9:30 a.m. Pursuant to Section 1 of Governor Steve Sisolak's [Emergency Directive 006](#), there was no physical location for this meeting.

The agenda, minutes, meeting materials, and audio or video recording of the meeting are available on the Committee's [meeting page](#). The audio or video recording may also be found at <https://www.leg.state.nv.us/Video/>. Copies of the audio or video record can be obtained through the Publications Office of the Legislative Counsel Bureau (LCB) (publications@lcb.state.nv.us or 775/684-6835).

COMMITTEE MEMBERS PRESENT:

Senator Joyce Woodhouse, Chair
Assemblyman Jason Frierson, Vice Chair
Senator Yvanna D. Cancela
Senator Nicole J. Cannizzaro
Senator Heidi SeEVERS Gansert
Senator Pete Goicoechea
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Sandra Jauregui
Assemblyman Glen Leavitt
Assemblyman Howard Watts III

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Michael J. Stewart, Research Director, Research Division
Haley Proehl, Geographic Information Systems (GIS) Analyst/Redistricting GIS Specialist,
Research Division
Gayle Nadeau, Research Policy Assistant, Research Division
Kathy Steinle, Redistricting Specialist, Information Technology Services
Asher A. Killian, Senior Principal Deputy Legislative Counsel, Legal Division
Samuel J. Quast, Deputy Legislative Counsel, Legal Division

Items taken out of sequence during the meeting have been placed in agenda order.

AGENDA ITEM I—OPENING REMARKS AND INTRODUCTIONS

Chair Woodhouse called the second meeting of the Committee to Conduct an Interim Study of the Requirements for Reapportionment and Redistricting in the State of Nevada to order. She reminded the members and those listening over the Internet that SCR 9 of the 2019 Legislative Session is the genesis of this interim study.

Chair Woodhouse said the Coronavirus Disease of 2019 ([COVID-19](#)) affected the role of the Committee and halted, until recently, the gathering of 2020 Census counts by the United States Census Bureau. She noted the census activity delays would impact how the 2021 Legislative Session will conduct the redistricting exercise.

AGENDA ITEM II—PUBLIC COMMENT

Forrest Darby, Vice President, Nevada Alliance for Retired Americans, Las Vegas, commented on his written testimony regarding historical information on redistricting. ([Agenda Item II](#))

AGENDA ITEM III—APPROVAL OF THE MINUTES FOR THE MEETING HELD ON JANUARY 27, 2020

MOTION: Vice Chair Frierson moved to approve the minutes of the January 27, 2020, meeting. The motion was seconded by Senator Cannizzaro and passed. Senator SeEVERS Gansert was absent for the vote.

AGENDA ITEM IV—OVERVIEW OF THE PROGRAMS AND ACTIVITIES OF NEVADA'S OFFICE OF THE STATE DEMOGRAPHER AND DISCUSSION OF POPULATION TRENDS AND PROJECTIONS IN NEVADA

Jeff Hardcastle, AICP, Nevada State Demographer, Nevada's Department of Taxation, testified regarding his role as Nevada's State Demographer and on the projections and trends in Nevada from the past nine years and going forward. He said there was a decrease in population in the state from 2010 through 2019. However, Mr. Hardcastle said the components of the change have been different from previous records with less international and domestic migration, and there was a greater increase in deaths.

Mr. Hardcastle addressed the following matters identified in his slide presentation: ([Agenda Item IV A-1](#))

- [Assembly Bill 450](#) (Chapter 186, *Statutes of Nevada* 2019), which is an act relating to incarcerated persons;
- Revenue distribution estimates, how projections and estimates are used in Nevada, and how population projections and economic analysis are used;
- Coordinating with the U.S. Census Bureau to improve knowledge about the census and data quality;
- His involvement as chair of the Federal-State Cooperative for Population Estimates Steering Committee and participation in establishing various working groups;

- Ensuring a complete count for Nevada with a series of iterative processes such as the [Local Update of Census Addresses Operation](#) (LUCA);
- Through LUCA, the U.S. Census Bureau provides all the address information that it has in the master address file for an area;
- The daily, weekly, and monthly counting of hotel units, which are considered housing units, if the lodging is the person's usual place of residence;
- State and county level cumulative census count response rates for Nevada as of May 21, 2020;
- Revised operations due to current operational delays and the unknown impacts on the quality of the data and/or post enumeration survey;
- Trends and projections—Components of change to Nevada's population;
- Net migration for Clark and Washoe Counties;
- The decrease, over time, of California's net out-migration;
- Nevada by age cohort for 2010 through 2018;
- Four factors that fueled Nevada's population in the 1990s and early 2000s: (1) a monopolistic economy; (2) competitive housing prices; (3) the relatively easy development of infrastructure and land; and (4) a relatively stable national and international economy;
- The "great recession" and the COVID-19 global pandemic; and
- Maps tracking the global and U.S. outbreak of the coronavirus.

Discussion ensued between Vice Chair Frierson and Mr. Hardcastle regarding how accurate the state's projections have been to actual growth and how Nevada compares to other states, as well as the consequences relative to the degree of inaccurate projections.

To clarify, Mr. Hardcastle provided an example of how the 2010 census overestimated the population of Mesquite, Nevada. He said such an occurrence could have a negative economic impact on someone starting a business because the actual population base may not support such a venture.

Vice Chair Frierson asked what an average acceptable projection would be, to which Mr. Hardcastle said a standard range would be 5 percent higher or lower.

Continuing, Vice Chair Frierson asked whether the state is able to make annual adjustments or revise population estimates throughout a decade to become more accurate.

Mr. Hardcastle said population estimates for revenue distribution purposes in Nevada, as well as in other states, become certified and "fixed in time," which is why local governments have the right to appeal those estimates. He said the estimates the state produces are certified yearly. However, with receipt of the 2021 census data, the Census Bureau, as well as Nevada, will correct errors from the previous decennial census.

Assemblyman Watts asked how the Census Bureau counts Nevadans who reside in a monthly or weekly housing situation.

Mr. Hardcastle responded it was his understanding people living in a typical apartment receive a letter from the Census Bureau. However, for units that may be housing people in a transitory situation, the census staff will contact the complex manager to identify such units. If the manager is not able to provide this information, the counters will knock on every door and ask whether the location is the person's place of residence. He said even people contacted in recreational vehicles (RV), who indicate the RV is their usual place of residence, will be counted.

Assemblyman Watts asked whether there has been further tracking of migration trends due to the COVID-19 pandemic.

Mr. Hardcastle responded there has not been any apparent migration trends noted at the state level because of the pandemic. However, he said as businesses and activities continue to reopen and people once again begin to recreate, growth in the state may rebound.

Commenting on the decennial census and annual updates, Senator Gansert asked whether the resources from the federal government are fixed on the census numbers even though the population fluctuates within ten-year periods.

Mr. Hardcastle said it depends on the federal funding program, which uses more than 1,000 funding formulas, and some of the census data. He said some of the formulas rely on the population estimates or characteristics of the population that come from the American Community Survey. For example, statistics regarding education, income, poverty, and unemployment are gathered during the course of the decade.

Subsequent to the meeting, Mr. Hardcastle provided additional information that addressed many of Vice Chair Frierson's questions relating to demographic data collection. ([Agenda Item IV A-2](#))

AGENDA ITEM V—REVIEW OF ANTICIPATED REAPPORTIONMENT AND REDISTRICTING EFFORTS BY THE BOARD OF REGENTS, NEVADA SYSTEM OF HIGHER EDUCATION

Joe Reynolds, Chief General Counsel, Nevada System of Higher Education (NSHE), said the Board of Regents and NSHE are engaged in the redistricting process and look forward to working with the Committee and the Nevada Legislature. He stressed the Board of Regents' overall goal is to present a redistricting plan for consideration by the Legislature that is reliable and has integrity. ([Agenda Item V](#))

Mr. Reynolds discussed the following information during his presentation:

- NSHE's redistricting timeline;
- The Board of Regents' 13 nonpartisan districts and related maps;
- 2010 census population and racial data for NSHE's regent districts;
- 2010 through 2020 estimated population changes provided by LCB's Research Division;
- Statewide distribution of the Board of Regents' districts from the 2019 census data;
- State demographers' 2020 population projections for the Board of Regents' districts; and

- NSHE's 2018 American Community Survey estimates of population and racial data reports.

AGENDA ITEM VI—UPDATE ON DECENNIAL CENSUS OUTREACH EFFORTS IN NEVADA AND IMPACTS OF COVID-19 RESPONSE ON CENSUS ACTIVITIES

Kerry Durmick, MA, Nevada Census Coordinator, Nevada Census 2020, Office of the Governor, provided an update on Nevada's 2020 Census outreach before the COVID-19 pandemic and its ongoing effect on census activities. She discussed some of Nevada Census 2020's current challenges and activities to engage more citizens in the census process. ([Agenda Item VI](#))

Ms. Durmick's slide presentation covered the following matters:

- The Nevada Census 2020 Mission;
- Nevada's census regions;
- Recap of the January through March census operation;
- Census grants;
- COVID-19 operation changes;
- Census Bureau updates;
- Highlights of challenges;
- Nevada Legislature's friendly census competition between the Senate and Assembly;
- Status of self-response rates in Nevada; and
- Ideas to help the Nevada Census 2020 achieve its goal of a complete count in the state.

Assemblyman Leavitt asked where the Nevada Census 2020 statewide events were held and whether Ms. Durmick could provide the Committee with a list of past and future events.

Ms. Durmick said no further Nevada Census 2020 events would be held because of COVID-19; however, 1,000 educational events were held from November 2019 through March 2020. She pointed out that, in addition to activities held in Clark and Washoe Counties, there were three rural events, and at one point, there were 10 to 20 organizers in the rural areas. Ms. Durmick stated she would provide the Committee with a list of the number of people attending the past events.

AGENDA ITEM VII—UPDATE OF UNITED STATES CENSUS BUREAU ACTIVITIES, OUTREACH, AND CENSUS RESPONSE RATES IN NEVADA AND DISCUSSION OF CENSUS BUREAU RESPONSE TO THE COVID-19 PANDEMIC

Guillermo Gonzalez, Congressional Partnership Specialist, Los Angeles Regional Census Center, U.S. Census Bureau, U.S. Department of Commerce, provided an overview of the 2020 Census operational adjustments due to COVID-19. ([Agenda Item VII](#))

Mr. Gonzalez said, with guidance from the Centers for Disease Control and Prevention and state and local health officials, the Census Bureau has resumed operations in Las Vegas and North Las Vegas. He said these locations have incorporated public health officials' guidelines to ensure the safety of the public, as well as Census Bureau employees, so that a complete count is achieved in Nevada. Mr. Gonzalez shared the Census Bureau extended the self-response period to October 31, 2020.

Brian Lee Berman, Senior Partnership Specialist, Los Angeles Regional Census Center, U.S. Census Bureau, U.S. Department of Commerce, commented that Nevada is doing well with a 60.1 percent total self-response rate in comparison to the rest of the country. He demonstrated online census response links that are available to help the U.S. Census Bureau, as well as legislators and the public, follow self-response rates. Mr. Berman pointed out that the tools are important in allocating time and resources for census workers through the October 31, 2020, deadline to ensure the most accurate counts. Lastly, he stated all the maps are sharable by clicking on a "share widget" on each page.

Mr. Berman reviewed several Census Bureau response rate maps from the 2020 Self-Response by State link (<https://2020census.gov/en/response-rates.html>), which shows the status of self-responses in each state. These response rates are shown as percentages and can be displayed in various geographies, including by state, county, city, congressional district, and tribal area. Mr. Berman also highlighted several tables and available filtering options designed to review various data choices.

Discussion ensued between Senator Goicoechea and Mr. Berman regarding the number of online self-response rates received in the rural areas of Nevada at the time of the meeting. Mr. Berman noted the total rural responses are on the 2020 initial self-response online map (<https://2020census.gov/en/response-rates.html>). He shared that residents living in rural areas of Nevada are able to respond to the 2020 census online as well as by phone: (844) 330-2020 for English and (844) 468-2020 for Spanish.

AGENDA ITEM VIII—OVERVIEW OF SELECT LEGAL CONSIDERATIONS FOR REAPPORTIONMENT AND REDISTRICTING

Asher A. Killian, previously identified, stated the presentation by him and Samuel J. Quast, previously identified, would provide an overview of the legal principles the Committee, as well as the 2021 Legislature, must consider as it draws the redistricting plans from the 2020 census data. ([Agenda Item VIII](#))

The categories discussed by Mr. Killian and Mr. Quast covered:

- *Legal Parameters*—Various limitations are imposed on the redistricting process by a variety of sources.
 - Prevailing legal principles presented during the legal overview were distilled from numerous court decisions in the redistricting area.
- *Primary Federal Protections*—Two of the most important issues that must be considered when drawing districts are protections granted by the *U.S. Constitution* and federal law. Specifically, attaining population equality among districts and the equitable treatment of racial and language minorities.

- *Equal Population Measures*—Ideal population; population deviation; and overall range. Courts are primarily interested in the final range of overall deviation when determining the validity of a district plan based on population equality.
- *Equal Population Sources*—The equal protection clause of the *U.S. Constitution's* Fourteenth Amendment to both houses of a state legislature, which was decided by the U.S. Supreme Court in the case of [Reynolds v. Sims](#) in 1964, relies on the principal of "one person—one vote."
- *Equal Population Standards*—Two standards apply: (1) "strict equality" for Congressional districts; and (2) state legislative districts, which allow states some flexibility in drawing plans.
- *Equal Population (Congress)*—The U.S. Supreme Court has interpreted the *U.S. Constitution* to require that the population of each Congressional district for a state must be as nearly equal as practicable.
- *Equal Population (State Legislatures)*—The U.S. Supreme Court has set forth the standard of achieving "substantial equality of population" among various districts.
- *Racial and Language Minorities Sources*—Another important consideration when drawing districts is the equitable treatment of minorities. If there is a challenge to a redistricting plan under Section 2 of the Voting Rights Act of 1965, a plaintiff must meet certain preconditions that were articulated by the U.S. Supreme in the 1986 case of [Thornburg v. Gingles](#).
- *Racial and Language Minorities Racial Gerrymandering*—If a court determines traditional districting principles were subordinated to race, and race was the predominant factor used in drawing a district, a court will apply strict scrutiny to analyze whether the state had a compelling interest in drawing a district and whether a district was narrowly tailored to achieve that interest.
- *Traditional Districting Principles*—States often consider secondary factors beyond equal population and the equitable treatment of minorities when drawing maps, such as compactness, contiguity, preservation of communities of interest, et cetera.
- *Nevada Constitution*—Mr. Killian pointed out several specific provisions in Nevada's Constitution that the Committee should be aware of, which are listed on the slide titled "Nevada Constitution." ([Agenda Item VIII](#))
- *Census Data Delay*—Complying with the various requirements discussed requires a careful analysis of the census data. Due to the COVID-19 pandemic, it is very likely that the Census Bureau will not make the necessary census data available to Nevada until after the conclusion of the 2021 Legislative Session.

Mr. Killian stressed that because Nevada's Legislature meets biennially, if Census data delivery is delayed as proposed by the Bureau, no regular session will occur between receiving the 2020 census data, leaving the Legislature without an opportunity to redistrict before the next general election. Therefore, he stated it is the opinion of LCB's Legal Division that if the Legislature does not enact a new redistricting plan based on the 2020 census data prior to the 2022 Elections, there is a significant risk a court will either order a special session or impose a court-drawn interim plan.

In summary, Mr. Killian stated there are two mandatory principles the Nevada Legislature must follow during the process of redistricting: (1) equal population and the equitable

treatment of racial and language minorities; and (2) compliance with the Voting Rights Act of 1965.

Referring to the slide showing the 2010 redistricting table on the Equal Population for Congress, Vice Chair Frierson asked why some states' population deviation is more than one, while it was his understanding a Congressional district's deviation should be zero to one. ([Agenda Item VIII](#))

Mr. Killian said the states on the table showing a Congressional deviation of more than one person have substantially smaller counties and populations spread more broadly amongst their counties than Nevada. He explained there are states where the courts, in certain special cases, have upheld tiny deviations so that counties or municipalities may remain intact.

AGENDA ITEM IX—OVERVIEW OF OPTIONS AND RECOMMENDATIONS CONCERNING THE USE AND ACQUISITION OF REDISTRICTING GEOGRAPHIC INFORMATION SYSTEMS SOFTWARE AND HARDWARE AND DISCUSSION REGARDING THE POSSIBLE HIRING OF LCB SESSION STAFF FOR GEOGRAPHIC INFORMATION SYSTEMS OPERATIONS

Haley Proehl, previously identified, presented three GIS software programs—autoBound, Maptitude, and Esri Redistricting—for the Committee to consider when making a recommendation to the Legislative Commission for redistricting software to use during the 2021 Legislative Session's redistricting exercise. She referenced five categories—desktop application, online application, staff familiarity, support, and pricing—for comparing the options. ([Agenda Item IX A-1](#))

Ms. Proehl discussed the three software programs in detail:

1. autoBound by Citygate GIS—The program has a built-in Microsoft Excel spreadsheet matrix that actively displays population and racial statistics for each district and updates the data in real time as changes to boundaries are made. The program has a tool that imports and aggregates election results. In the past, Nevada has used election data, which the census bureau does not provide, when redistricting; it is helpful to have this tool to aggregate imported data to the census block level. ([Agenda Item IX A-2](#))
2. Maptitude by Caliper Corporation—Like autoBound, this program offers desktop and online redistricting applications, as well as tools to create plans that meet legal requirements. However, Maptitude does not have a tool for staff to import redistricting data, but instead, Caliper Corporation processes the data and provides it via an electronic download. The program does not include [American Community Survey](#) (ACS) estimates, so there is little pre-redistricting value with Maptitude, and its active matrix does not allow custom calculations as does autoBound's Microsoft Excel feature. Additionally, there is not a public commenting tool with Maptitude's online application in comparison to autoBound's online application. ([Agenda Item IX A-3](#))
3. Esri Redistricting by Esri—This program is web-based and presented only for licensing consideration to use for public redistricting workstations. ([Agenda Item IX A-4](#))

Assemblywoman Jauregui noted autoBound is the redistricting software LCB GIS staff has worked with in the past; however, she asked whether Maptitude was included for consideration because it may be a program LCB staff is interested in using.

Ms. Proehl said Maptitude was included because it meets the functionality requirements, and staff focused on presenting unbiased redistricting software options. However, she noted autoBound has a few benefits compared to Maptitude, including dependable software and technical support based on previous experience. It is also a well-priced option, and staff has an established relationship with the vendor.

Senator Gansert asked whether there is a disadvantage to the autoBound program.

Ms. Proehl responded the GIS staff does not view using autoBound again as a disadvantage. If anything, she noted, autoBound has the necessary tools to create many plans that Maptitude does not have. In addition, autoBound meets the legal requirements for redistricting. Ms. Proehl added that autoBound offers an ACS estimates feature that could be used to make projections while waiting for the actual 2020 census data.

Senator Gansert asked whether upgrading to the perpetual subscription is allowable after possibly purchasing the less expensive two-month subscription.

Ms. Proehl said it was her understanding a decision is needed at the time of purchasing either the monthly or the perpetual option. Waiting to make a decision on which option to purchase until knowing how long the redistricting process would last would help determine which license to purchase. She commented the actual cost of the monthly service is \$8,500, so after two months, there is no cost advantage to purchasing a monthly option.

Senator Gansert asked whether receipt of the 2020 census data is required before starting the redistricting task or whether scenarios could be developed in the meantime based on assumptions.

Ms. Proehl said the goal is to purchase at least the staff licenses a few months prior to the release of the 2020 census data in order for staff to learn the software well enough and practice updating data so that they can assist legislators and other staff who need to use the GIS program. Therefore, she said, having the autoBound program prior to the release of the census data would enable the creation of various scenarios, maps, and projecting plan assumptions.

Michael J. Stewart, previously identified, discussed the position requirements for the 2020-2021 Session GIS technicians who would support legislators before and during the 2021 redistricting undertaking, if the Legislative Commission approves the possible hiring of GIS technicians.

Mr. Stewart proceeded to review the job description for a GIS technician. He noted the Nevada Legislature approved hiring four GIS technicians for the 2011 redistricting exercise and assigned one to each caucus to assist legislators in a nonpartisan capacity with GIS questions. Mr. Stewart said the typical employment period for this position is between six and nine months. ([Agenda Item IX B](#))

Considering the COVID-19 social distancing needs, Vice Chair Frierson and Mr. Stewart discussed the location of offices for the potential GIS technicians. Mr. Stewart stated LCB is reviewing spacing to ensure social distancing is a priority in the caucus rooms and staff offices throughout the buildings during the 2021 Legislative Session.

Kathy Steinle, previously identified, reported on the essential hardware needs to support the redistricting software and staffing configurations during the 2021 Legislative redistricting undertaking. She said the costs noted in her handout are estimates, and some savings may

be realized when the hardware is purchased. Ms. Steinle also shared that LCB staff will be able to use the hardware after the redistricting task is completed. ([Agenda Item IX C](#))

Chair Woodhouse suggested the Committee recommend to the Legislative Commission to purchase under the 2021 Session budget the autoBound software, up to \$67,000, and the necessary hardware and hire 2021 Session GIS staff—only if necessary due to the census data delays caused by the COVID-19 situation.

MOTION: Senator Cannizzaro moved to recommend to the Legislative Commission the purchase, under the 2021 Session budget, of the autoBound software up to \$67,000; the authorization to purchase necessary hardware for GIS services; and the authorization to hire, if necessary, LCB session hires for GIS work. Vice Chair Frierson seconded the motion. The motion passed. Assemblywoman Benitez-Thompson was absent for the vote.

AGENDA ITEM X—REVIEW AND DEVELOPMENT OF THE INTERNET WEBSITE REGARDING THE NEVADA LEGISLATURE’S REAPPORTIONMENT AND REDISTRICTING EFFORTS

Haley Proehl, previously identified, demonstrated the Nevada Legislature’s GIS redistricting website pertaining to the 2021 reapportionment and redistricting cycle. She said the website debuted on May 1, 2020, and is offered to legislators, stakeholders, and members of the public as a resource for information and data about reapportionment and redistricting in Nevada. Ms. Proehl called attention to her document about the 2121 website, which references additional resources about the website. ([Agenda Item X](#))

AGENDA ITEM XI—BRIEF REVIEW OF REAPPORTIONMENT AND REDISTRICTING RESOURCES, MATERIALS, AND OTHER INFORMATION

Michael J. Stewart, previously identified, briefly discussed the following three informational items the Committee may find helpful during its work on preparing its recommendations to the 2021 Legislative Session regarding the redistricting exercise:

1. A letter to the U.S. House Committee on Oversight and Reform from the National Conference of State Legislatures (NCSL), concerning census delays and the use of differential privacy statistical methods to meet the goal of avoiding disclosure of individual resources and how such methodology could affect small level geographies transmitted to the states ([Agenda Item XI A-1](#));
2. A document from April 17, 2020, about state redistricting deadlines, which includes a table with data about the redistricting deadlines for the states and which is helpful to note how states are handling various census delivery issues ([Agenda Item XI A-2](#)); and
3. A document titled “Status of Current Operations” listing area census offices that are restarting operations, resuming field operations, and completing the hiring process for nonresponse follow-up field staff under new COVID-19 guidelines. ([Agenda Item XI A-3](#))

AGENDA ITEM XII—DISCUSSION OF FUTURE MEETING DATES AND POTENTIAL AGENDA TOPICS FOR FUTURE MEETINGS

Chair Woodhouse shared that the Committee would seek an extension from the Legislative Commission to extend its operations, which has been the case for this interim study committee in the past, in order to complete its task to make necessary redistricting recommendations to the Legislature during a decennial census year.

Chair Woodhouse proposed holding the third meeting of the Committee in mid-August and the fourth meeting in mid to late October, which is closer to the revised census deadline of October 31 and the 2020 General Election. She said staff would communicate with the Committee to schedule the last two meetings.

AGENDA ITEM XIII—PUBLIC COMMENT

Forrest Darby, previously identified, commented he would meet with his grassroots redistricting team to discuss the matters presented at the meeting. Subsequent to the meeting, he emailed the Committee the opinions of the grassroots team. ([Agenda Item XIII A](#))

Subsequent to the meeting, Doug Goodman, Founder and Executive Director, Nevadans for Election Reform, submitted written public comment concerning Agenda Item VIII relating to legal considerations for reapportionment and redistricting. ([Agenda Item XIII B](#))

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AGENDA ITEM XIV—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 1:37 p.m.

Respectfully submitted,

Gayle Nadeau

Research Policy Assistant

Michael J. Stewart

Director, Research Division

APPROVED BY:

Senator Joyce Woodhouse, Chair

Date: August 27, 2020

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MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item II	Forrest Darby, Vice President, Nevada Alliance for Retired Americans, Las Vegas	Prepared remarks
Agenda Item IV A-1	Jeff Hardcastle, AICP, Nevada State Demographer, Nevada's Department of Taxation (NDT)	Microsoft PowerPoint presentation
Agenda Item IV A-2	Jeff Hardcastle, AICP, Nevada State Demographer, NDT	Demographic information
Agenda Item V	Joe Reynolds, Chief General Counsel, Nevada System of Higher Education	Microsoft PowerPoint presentation
Agenda Item VI	Kerry Durmick, MA, Nevada Census Coordinator, Nevada Census 2020, Office of the Governor	Microsoft PowerPoint presentation
Agenda Item VII	Guillermo Gonzalez, Congressional Partnership Specialist, Los Angeles Regional Census Center, United States Census Bureau, U.S. Department of Commerce	Information on 2020 Census operational adjustments due to COVID-19
Agenda Item VIII	Asher A. Killian, Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau (LCB), and Samuel J. Quast, Deputy Legislative Counsel, Legal Division, LCB	Microsoft PowerPoint presentation
Agenda Item IX A-1	Haley Proehl, Geographic Information Systems (GIS) Analyst/Redistricting GIS Specialist, Research Division, LCB	Data table regarding redistricting software options
Agenda Item IX A-2	Haley Proehl, GIS Analyst/Redistricting GIS Specialist, Research Division, LCB	Brochure about autoBound's redistricting software
Agenda Item IX A-3	Haley Proehl, GIS Analyst/Redistricting GIS Specialist, Research Division, LCB	Brochure about Maptitude's redistricting software
Agenda Item IX A-4	Haley Proehl, GIS Analyst/Redistricting GIS Specialist, Research Division, LCB	Brochure about Esri's redistricting software

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item IX B	Michael J. Stewart, Research Director, Research Division, LCB	LCB job description for a geographic information systems technician
Agenda Item IX C	Kathy Steinle, Redistricting Specialist, Information Technology Services, LCB	Data sheet regarding redistricting hardware essentials
Agenda Item X	Haley Proehl, GIS Analyst/Redistricting GIS Specialist, Research Division, LCB	Informational document about Nevada's 2021 reapportionment and redistricting website
Agenda Item XI A-1	Michael J. Stewart, Research Director, Research Division, LCB	National Conference of State Legislatures' (NCSL) letter to the U.S. House Committee on Oversight and Reform
Agenda Item XI A-2	Michael J. Stewart, Research Director, Research Division, LCB	Document about state redistricting deadlines
Agenda Item XI A-3	Michael J. Stewart, Research Director, Research Division, LCB	Document concerning current census operations in cities throughout the United States
Agenda Item XIII A	Forrest Darby, Vice President, Nevada Alliance for Retired Americans, Las Vegas	Email concerning suggested boundary lines for certain congressional districts
Agenda Item XIII B	Doug Goodman, Founder and Executive Director, Nevadans for Election Reform	Email regarding legal considerations for redistricting

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EXHIBIT 6

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EXHIBIT 6

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15 *Attorneys for Plaintiff*

16 **IN THE FIRST JUDICIAL DISTRICT COURT**
17 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

18 ERIC JENG, an individual,
19
20 Plaintiff,

21 vs.

22 FRANCISCO V. AGUILAR, in his
23 official capacity as NEVADA
24 SECRETARY OF STATE,
25 Defendant

26 and

27 Fair Maps Nevada,
28 Intervenor-Defendant.

Case No.: 23 OC 000137 1B
Dept. No.: II

**REPLY IN SUPPORT OF
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF
CHALLENGING INITIATIVE
PETITION C-04-2023**

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1 Initiative Petition C-04-2023 violates the Nevada Constitution’s prohibition on
2 unfunded mandates by creating a new government body to engage in an inevitably
3 costly redistricting process, without containing any mechanism to raise the necessary
4 funds, and because of fatal flaws in its description of effect. This Court already held
5 in 2020—in a case in which Fair Maps Nevada PAC was a party—that a substantively
6 identical petition would require an expenditure of funds and needed revisions to its
7 description of effect that are missing from the Petition at issue here. Compl. Ex. 3, at
8 4-5. Fair Maps has no answer to that decision, and so simply ignores it. The Court
9 should reach the same conclusions here, and should therefore enjoin the Nevada
10 Secretary of State from taking further action on the Petition.

11 **ARGUMENT**

12 **A. The Petition fails to fund required expenditures in violation of article**
13 **19, section 6 of the Nevada Constitution.**

14 The Petition is unlawful because it would require the expenditure of public
15 funds to fund the Commission but does not provide for raising the necessary money.
16 The Nevada Constitution prohibits any initiative that “makes an appropriation *or*
17 *otherwise requires the expenditure of money*, unless such statute or amendment also
18 imposes a sufficient tax, not prohibited by the constitution, or otherwise
19 constitutionally provides for raising the necessary revenue.” Nev. Const. art. 19, § 6
20 (emphasis added).

21 Fair Maps argues that creating the Commission will not require an
22 appropriation because it will not cost money. Answering Br. 4-5. But the Court held
23 to the contrary four years ago with respect to a substantively identical petition,
24 explaining that it would “result in the expenditure of state funds.” *See Jackson v. Fair*
25 *Maps Nevada PAC*, No. 19-OC-002909 1B (Nev. 1st Jud. Dist. Ct. Jan. 2, 2020),
26 Compl. Ex. 3, *aff’d*, No. 80563 (Nev. July 24, 2020), Compl. Ex. 4. Fair Maps fails to
27 grapple with (or even mention) the 2020 holding in its brief, and offers no explanation
28

1 for why the Court should reach a different conclusion this time around.

2 Issue preclusion bars Fair Maps from relitigating whether the Petition will
3 require an expenditure of funds. Issue preclusion applies where (1) the prior litigation
4 involved “the same fact issue” issue as prior litigation, even if the legal claims are
5 “substantially different,” provided that (2) the prior ruling was on the merits and
6 became final, (3) the party to be precluded was a party to the prior action, and (4),
7 the issue was “actually and necessarily litigated.” *Five Star Cap. Corp. v. Ruby*, 124
8 Nev. 1048, 1053, 1055, 194 P.3d 709 (2008) (quoting *LaForge v. State, Univ. & Cmty.*
9 *Coll. Sys. of Nev.*, 116 Nev. 415, 421, 997 P.2d 130 (2000)). Each of those factors is
10 met here. The Petition is substantively identical to the petition at issue in the 2020
11 case, so the question whether it will require an expenditure of state funds is “the
12 same fact issue” decided there. *Id.* at 1053. The 2020 ruling was on the merits and
13 became final after the Supreme Court’s affirmance. *See* Compl. Exs. 3, 4. Fair Maps
14 was a defendant in the prior action and is an intervenor-defendant here. *See id.* And
15 the issue was actually and necessarily litigated, because the complaint and briefing
16 in the 2020 case argued that the petition would require state funding, and the Court
17 so held when it ordered the description of effect revised to say so. *See Exhibit 1*, a
18 true and accurate copy of the Opening Br. in Supp. of Compl. for Declaratory &
19 Injunctive Relief, *Jackson v. Fair Maps Nevada PAC*, No. 19-OC-002909 1B (Nev. 1st
20 Jud. Dist. Ct. Nov. 26, 2019).

21 Preclusion aside, the Petition undeniably requires funding in violation of
22 article 19, section 6, because new it creates a government body to engage in a costly,
23 time-consuming process without providing any means of funding it. Fair Maps offers
24 four contrary arguments, but each fails.

25 *First*, the existing “general appropriation to fund the Legislature’s business”
26 that funds the *Legislature’s* redistricting activities will not help fund the new
27 Commission that the Petition would create. Answering Br. 4. The Petition is explicit
28

1 that the "Independent Redistricting Commission" is a new body, created by the
2 Petition for the first time, whose members *cannot* be current legislators. Compl. Ex.
3 1, at 2. That the Legislature has an existing funding stream to carry out its own
4 activities will do nothing to help fund the activities of the new body, with different
5 members, that the Petition would create.

6 Moreover, the necessary funding will likely be substantial. Fair Maps argues
7 that it could be a "volunteer effort" but points to no example from anywhere in which
8 redistricting has been carried out for free. To the contrary, redistricting commissions
9 in other states have required millions of dollars in state funding. Compl. ¶¶ 19-22.
10 And the Nevada Legislature, too, has spent substantial funds on redistricting when
11 it has done so in the past.¹ At a minimum, it will cost money to recruit, identify, and
12 vet the Commission's members, and the Commission will need to analyze the maps,
13 consider its options, hold public hearings, and ensure it complies with nine specific
14 criteria identified in the Petition. See Compl. Ex. 1.

15 *Second*, redistricting by the Nevada courts in 2011 is not a template for
16 redistricting by the Commission. The Nevada courts, of course, are an existing
17

18
19 ¹ The Legislature relies on a fully staffed and salaried Committee to Conduct
20 an Investigation into Matters Relating to Reapportionment and Redistricting in
21 Nevada. See Exhibit 2, a true and accurate copy of the Nevada Legislature webpage
22 identifying staff members of the Committee to Conduct an Investigation into Matters
23 Relating to Reapportionment and Redistricting in Nevada. Further, the Committee
24 to Conduct an Interim Study of the Requirements for Reapportionment and
25 Redistricting recommended redistricting software that costs money, including
26 AutoBound by Citygate GIS, which is estimated to fall in the range of \$53,000-67,000.
27 See Exhibit 3, a true and accurate copy of the Legislative Counsel Bureau's
28 presentation on Redistricting Software Options. The Legislative Commission
purchased the AutoBound software and any necessary hardware under the 2021
Session Budget. See Exhibit 4, a true and accurate copy of the May 27, 2020
Summary Minutes of the Nevada Legislature Committee to Conduct an Interim
Study of the Requirements for Reapportionment and Redistricting in the State of
Nevada.

1 government body with an existing source of funding. In contrast, the Commission will
2 be a new body that is not already funded and will require an appropriation of funds.
3 Moreover, the need for the courts to become involved in redistricting in 2011 was not
4 the result of an initiative petition, and therefore was not subject to the restrictions in
5 article 19, section 6 in any event.

6 *Third*, concluding that the Petition violates article 19, section 6 would be
7 consistent with prior initiative petitions. Fair Maps argues that other petitions have
8 been adopted that similarly required, but did not provide for, funding. But none of
9 those other petitions is analogous because each either tasked an existing government
10 body or entity with activities already within its purview, Nev. Const. art. 1, § 21, *id.*
11 art. 2, § 10, *id.* art. 4, §§ 38-39, *id.* art. 10, §§ 3, 3b, *id.* art. 11, § 6, or imposed at most
12 incidental costs to maintain or adjust an existing process, Nev. Const. art. 4, § 39, *id.*
13 art. 10, §§ 3, 3b, *id.* art. 11, § 6, *id.* art. 15, § 16, *id.* 1, § 22. Some of the examples
14 merely set priorities or impose conditions in the event that an existing government
15 entity decided to do something, Nev. Const. art. 11, § 6, *id.* art. 1, § 22. The Petition,
16 in contrast, creates an entirely new body to carry out a mandatory task.

17 *Finally*, the Petition's mandating mid-cycle redistricting after the 2026 general
18 election is certain to incur additional costs. It is no answer to say that the Legislature
19 might otherwise choose to redistrict anyway. Doing so would be the Legislature's
20 choice—a choice that is not subject to article 19, section 6. But the Petition makes
21 such mid-cycle redistricting mandatory, and thus requires an expenditure of funds
22 that might not otherwise have occurred.

23 **B. Well-established law indicates that constitutional initiative petitions**
24 **must comply with article 19, section 6.**

25 The Nevada Supreme Court has held that “regardless of whether the initiative
26 petition is proposing statutory or constitutional changes, if the initiative petition
27 requires expenditures or appropriations, it must include funding provisions.” *Educ.*
28

1 *Freedom PAC v. Reid*, C, 138 Nev. Adv. Op. 47, 512 P.3d 296, 303 (Nev. 2022). Fair
2 Maps encourages this Court to ignore binding precedent and cites the concurrence in
3 *Reid* to argue that its unconstitutional Petition should withstand this Court's
4 scrutiny because the Petition is a constitutional initiative, not a statutory one. But
5 the controlling majority opinion holds to the contrary. *Reid's* clear holding is bolstered
6 by the Nevada Supreme Court's consistent prior decisions that "[s]ection 6 applies to
7 all proposed initiatives, without exception, and does not permit any initiative that
8 fails to comply with the stated conditions." *Rogers v. Heller*, 117 Nev. 169, 173, 18
9 P.3d 1034 (2001) (per curiam); see also *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877,
10 890-91, 141 P.3d 1224, (2006) (recognizing that article 19, section 6 "prevents the
11 electorate from creating the deficit that would result if government officials were
12 forced to set aside or pay money without generating the funds"—a purpose which is
13 only achieved if the requirement applies to all initiative petitions).

14 **C. The Petition's description of effect is legally insufficient.**

15 The Petition's description of effect is legally insufficient because it fails to
16 include the fact that the Petition will result in an expenditure of funds and to explain
17 that mid-cycle redistricting could replace maps drawn by the legislature—two
18 material facts that the First Judicial District Court held must be included in the
19 description of the materially identical 2019 petition. Ex. 3, at 4–5. Fair Maps ignores
20 this holding and fails to articulate how the Court can overlook the Petition's
21 deficiencies despite this holding.

22 **CONCLUSION**

23 The Petition is legally deficient, and Plaintiff's requested relief should be
24 granted.

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AFFIRMATION

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

DATED this 3rd day of January, 2024.

BRAVO SCHRAGER LLP

By: 

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1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 3rd day of January, 2024, a true and correct copy
3 of the **REPLY IN SUPPORT OF MEMORANDUM OF POINTS AND**
4 **AUTHORITIES IN SUPPORT OF COMPLAINT FOR DECLARATORY AND**
5 **INJUNCTIVE RELIEF CHALLENGING INITIATIVE PETITION C-04-2023**
6 was served upon all parties via U.S.P.S. Mail, Las Vegas Nevada and via electronic
7 mail as follows:

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19 By: 
20 Dannielle Fresquez, an Employee of
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28

Exhibit 1

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Exhibit 1

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6
7 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR CARSON CITY**

9
10
11 REV. LEONARD JACKSON,
12 Plaintiff,

13 v.

14 FAIR MAPS NEVADA PAC, and
15 BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State,
16 Defendants.

Case No.: 1902 00209 B

Dept. No.: #

**OPENING BRIEF IN SUPPORT OF
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

17
18
19 Plaintiff, Rev. Leonard Jackson, by and through counsel, Kevin Benson, Esq. of BENSON
20 LAW, LLC, seeks declaratory and injunctive relief against Defendants that the Redistricting
21 Commission Initiative Petition does not comply with the requirements of state law and therefore
22 cannot appear on the general election ballot for 2020.

23 **I. FACTS**

24 On November 4, 2019, Sondra Cosgrove, in connection with Defendant Fair Maps Nevada
25 PAC, filed a constitutional initiative petition designated as #C-02-2019 by the Secretary of State. The
26 initiative petition seeks to amend the Nevada Constitution to require that redistricting be performed
27 by a commission rather than by the Legislature ("the Petition"). The Petition proposes to add a new
28

1 Section 5A to Article 4, Section 5 of the Nevada Constitution, which would be titled:
2 “Apportionment; Creation of Independent Redistricting Commission.” Petition, Section 5A.¹

3 The Petition would create the “Independent Redistricting Commission” (“Commission”)
4 within the legislative branch of state government. Petition, Section 5A(1). Starting in the year 2023,
5 the Commission would apportion the number of Senators and Assemblymen among the state
6 legislative districts and would apportion the number of representatives to the United States House of
7 Representatives among the congressional districts. *Id.*

8 The Commission would consist of seven members. Petition, Section 5A(2). The Senate
9 Majority Leader, Senate Minority Leader, Speaker of the Assembly, and Assembly Minority Leader
10 each appoint one commissioner. *Id.* These four commissioners appoint three additional
11 commissioners, each of whom has not been registered or affiliated with either of the two largest
12 political parties in the State within the last four years, and is not registered or affiliated with the same
13 political party as another commissioner. *Id.*

14 Additionally, a commissioner cannot, within the four years preceding appointment and during
15 their term on the Commission, be a registered lobbyist, a candidate for partisan office, an elected
16 official to a partisan office, an officer or member of the governing body of a political party, a paid
17 consultant or employee of a partisan elected official, candidate, PAC, or caucus, an employee of the
18 Legislature or the State of Nevada (except employees of the judicial branch, the armed forces, or a
19 state institution of higher education). Petition, Section 5A(3). Nor may a commissioner be related
20 within the third degree of consanguinity or affinity to any such individual. *Id.*

21 All meetings of the Commission must be open to the public and the Commission shall ensure
22 that the public has the opportunity to view, present testimony, and participate in the hearings before
23 the Commission. All Commission materials shall be public records. Petition, Section 5A(5).

24 The Commission shall adopt a redistricting plan not later than July 1, 2023, and thereafter not
25 later than 180 from the release of the decennial census. Petition, Section 5B(2).

26
27 ¹ Unless otherwise noted, the citations to the text of the Petition are to the *proposed* constitutional section and subsection
28 numbers in Section 2 of the Petition.

1 A final plan requires five affirmative votes, including votes from at least one commissioner
2 from each of the two largest political parties and one commissioner not registered or affiliated with
3 either of those parties. *Id.*

4 The Commission must draw districts according to certain criteria, and must apply those criteria
5 in the order listed in the Petition. Petition, Section 5B(1). These criteria include ensuring that, on a
6 statewide basis, the districts “do not unduly advantage or disadvantage a political party.” *Id.* The last
7 criteria that the Commission may consider is the number of politically competitive districts. *Id.*

8 The Description of Effect of the Petition states in full:

9 This measure will amend the Nevada Constitution to establish an Independent Redistricting
10 Commission to oversee the mapping of fair and competitive electoral districts for the
11 Nevada Senate, Nevada Assembly, and U.S. House of Representatives.

12 The Commission will consist of seven Nevada voters, four who will be appointed by the
13 leadership of the Nevada Legislature, and three who are unaffiliated with the two largest
14 political parties who will be appointed by the other four commissioners. Commissioners
15 may not be partisan candidates, lobbyists, or certain relatives of such individuals. All
16 meetings of the Commission shall be open to the public who shall have opportunities to
17 participate in hearings before the Commission.

18 The Commission will ensure, to the extent possible, that the electoral districts comply with
19 the United States Constitution, have an approximately equal number of inhabitants, are
20 geographically compact and contiguous, provide equal opportunities for racial and
21 language minorities to participate in the political process, respect areas with recognized
22 similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or
23 historic identities, do not unduly advantage or disadvantage a political party, and are
24 politically competitive.

25 This amendment will require redistricting by the Commission beginning in 2023 and
26 thereafter following each federal census.

27 Petition, p. 3, Description of Effect.

28 II. ARGUMENT

A. Legal Standard for the Description of Effect.

NRS 295.009(1)(b) requires that every initiative “[s]et forth, in not more than 200 words, a
description of the effect of the initiative or referendum if the initiative or referendum is approved by
the voters.” The purpose of the description of effect is to “prevent voter confusion and promote
informed decisions.” *Nevadans for Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006).

1 The description of effect must appear on every signature page. NRS 295.009(1)(b). Thus “[t]he
2 importance of the description of effect cannot be minimized, as it is what the voters see when
3 deciding whether to even sign a petition.” *Coal. for Nev.’s Future v. RIP Commerce Tax, Inc.*, No.
4 69501, 2016 Nev. Unpub. LEXIS 153, at *5 (May 11, 2016) (unpublished decision – NRAP 36(c),
5 citing *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876
6 (2013) and *Las Vegas Taxpayer Accountability Comm. v. City Council*, 125 Nev. 165, 177, 208 P.3d
7 429, 437 (2009)).

8 For that reason, the description of effect “must be a straightforward, succinct, and
9 nonargumentative summary of what the initiative is designed to achieve.” *Educ. Initiative*, 129 Nev.
10 at 37, 293 P.3d at 876. The district court must also analyze “whether the information contained in the
11 description is correct and does not misrepresent what the initiative will accomplish and how it intends
12 to achieve those goals.” *Id.*, 129 Nev. at 35. 293 P.3d at 883.

13 **B. The Description of Effect inaccurately states that the Commission would be**
14 **“independent,” and therefore is misleading.**

15 The first sentence of the Petition’s description of effect states in relevant part: “This measure
16 will amend the Nevada Constitution to establish an **Independent** Redistricting Commission.”
17 (Emphasis added.) However, the Commission is not independent, thus that statement is inaccurate
18 and seriously misleading. The Commission is not independent for two main reasons: its composition
19 and its funding.

20 1. **The Commission is not independent because legislative leadership would directly**
21 **appoint a majority of the commissioners.**

22 First, a majority of the Commission is directly appointed by the major parties’ legislative
23 leadership. Petition, Section 5A(2). The Petition prohibits certain politically-active people from
24 serving as commissioners. *See* Petition, Section 5A(3) (prohibiting from serving those who in the
25 previous four years have been partisan candidates or elected officials, lobbyists, most state
26 employees, paid political staff, etc., and their close relatives). These exclusions only prevent a certain
27 sub-set of politically-involved people from serving on the Commission. For example, it does not
28 prevent a legislator from appointing a campaign volunteer, nor does it prevent county commissioners

1 or city council members from being appointed. The exclusions do not create independence because
2 the appointments are still directly made by legislative leadership. Thus the exclusions do nothing to
3 ensure that appointees are insulated from political pressures, are not beholden to the legislative
4 leadership, and do not stand to gain personally or politically from serving on the Commission.

5 The composition and selection of the Commission as proposed in the Petition is contrary to
6 truly “independent” redistricting commissions that have been adopted in other states. Four other
7 states have given primary redistricting responsibility to independent commissions. In each of them,
8 the independence of the commissioners is ensured by having a body *other than* the legislative
9 leadership either appoint the commissioners directly, or create the pool from which commissioners
10 are chosen.

11 In Arizona, the commission on appellate court appointments creates an initial pool of 25
12 nominees, ten from each of the two largest parties, and five not from those two parties. Ariz. Const.
13 art. IV, pt. 2, § 1(4), (5). Legislative leadership can only appoint commissioners from this pool. *Id.* at
14 (6).

15 In Colorado, a panel of three retired appellate court justices or judges randomly select
16 nominees from all applicants who meet the minimum qualifications, then the panel creates pools for
17 each of the two major parties and for nonpartisans. Colo. Const. Art. V, Section 44.1. Applicants are
18 selected based on, among other things, their experience, analytical skills, and ability to remain
19 impartial. *Id.* at 44.1(3)(1),(2). The panel of judges must ensure that the commission reflects
20 Colorado’s racial, ethnic, gender, and geographical diversity. *Id.* at 44.1(10). Legislative leadership
21 can choose sub-pools from their respective party’s pool, but ultimately the panel of retired judges
22 make the final selection. *Id.* at 44.1(8)-(10).

23 In California, Proposition 11 of 2008 amended the California Constitution to create the
24 Citizens Redistricting Commission. That amendment expressly states: “The selection process is
25 designed to produce a commission that is independent from legislative influence and reasonably
26 representative of this State’s diversity.” Cal. Const. Art. XXI, Section 2(c)(1). Government auditors
27 create a pool from the qualified applicants. Cal. Govt. Code § 8252. Legislative leadership can reduce
28 the pool, but then the auditors pick a majority of the commissioners by lottery, and those

1 commissioners appoint additional commissions from the remaining members of the pools, who form
2 a minority of the commission. *Id.*

3 In Michigan, the secretary of state must make the application to serve as a commission widely
4 available to the general public in all areas of the state. Mich. Const., Art. IV, § 6. The secretary of
5 state must also mail 10,000 applications to randomly selected voters. *Id.* The secretary of state then
6 creates the pools by randomly selecting from the qualified applicants, but shall also use accepted
7 statistical methods to ensure that the pool represents the geographical and demographic diversity of
8 the state. *Id.* Similar to California, legislative leadership can reduce the pools by striking a certain
9 number of names, but the secretary of state, by lottery, makes the final selections of commissioners
10 from the remaining pool. *Id.*

11 Additionally, most states prohibit commissioners from running for partisan office or being
12 appointed to an office or government employment for a certain period of time *after* serving on the
13 commission. *See e.g.*, Ariz. Const. art. IV, pt. 2, § 1(13) (ineligible for public office and cannot be a
14 paid lobbyist for three years after serving); Cal. Const. Art. XXI, Section 2(c)(6) (ineligible for office
15 for 5 to 10 years, depending on the office); Mich. Const. Art. IV § 6(1)(e). This reduces the incentive
16 for commissioners to draw maps that would favor their own future political ambitions.

17 By contrast, the Petition in this case: (1) allows legislative leadership to directly appoint a
18 majority of the Commission; (2) allows the commissioners to run for an office for which they just
19 finished drawing new districts; and (3) allows the commissioners to be appointed to an office or any
20 other government position immediately after completing redistricting. Thus the Petition permits
21 substantial political influence over individual commissioners and the Commission itself. Nor does the
22 Petition prevent individual commissioners from acting solely for their own political interests.

23 2. The Commission is not independent because it has no independent funding.

24 Redistricting is an expensive and difficult process. *See* “Reapportionment and Redistricting,”
25 Legislative Counsel Bureau Bulletin No. 11-04 (January 2011).² It requires a huge amount of data,
26 staff with technical expertise, and specialized software. *Id.* Additionally, the Commission would

27
28 ² Available at: <https://www.leg.state.nv.us/Division/Research/Publications/InterimReports/2011/Bulletin11-04.pdf>

1 require administrative staff to manage its materials, schedule, notice, and hold its meetings, and
2 respond to requests and input from the public. The Commission will also need legal guidance to
3 ensure that it complies with the Voting Rights Act and other federal requirements, as well as the
4 requirements in the Petition.

5 Despite these substantial costs, the Petition does not provide for any funding or funding
6 mechanism for the Commission. In fact, the Petition does not require that the Commission be funded
7 at all. Again, this contrasts starkly with truly independent commissions in other states.

8 For example, the Michigan Constitution mandates that the legislature shall fund the
9 commission, and sets forth a formula for the amount. It states: “the legislature shall appropriate funds
10 sufficient to compensate the commissioners and to enable the commission to carry out its functions,
11 operations and activities, which activities include retaining independent, nonpartisan subject-matter
12 experts and legal counsel, conducting hearings, publishing notices and maintaining a record of the
13 commission's proceedings, and any other activity necessary for the commission to conduct its
14 business, **at an amount equal to not less than 25 percent of the general fund/general purpose**
15 **budget for the secretary of state for that fiscal year.”** Mich. Const. Art. IV § 6(5) (emphasis
16 added).

17 Other states have similar language, and also mandate that the legislature fund the commission
18 adequately to ensure that it can carry out its duties.

19 California requires that the legislature appropriate funds for the commission according to a
20 formula, but in no event less than \$3 million for each cycle of redistricting. Cal. Govt. Code. §
21 8253.6.

22 The Arizona Constitution similarly requires that the legislature fund the commission, and
23 mandates that it be appropriated \$6 million for its first year of operation. Ariz. Const. Art. 4, Part 2,
24 Section 1(18). The commission has express authority to challenge the sufficiency of the funding
25 appropriated. *Id.*

26 The Legislature is the branch of government that holds the purse strings. *State Emps. Ass'n v.*
27 *Daines*, 108 Nev. 15, 21, 824 P.2d 276, 279 (1992). As such, it has tremendous power to control the
28 Commission by deciding whether, when, how much, and for what purposes to appropriate money for

1 the Commission. Likewise, it can direct the Legislative Counsel Bureau whether or not provide
2 assistance to the Commission. *See* NRS 218F.110 (LCB staff hired and duties defined pursuant to
3 budget approved by Legislative Commission).

4 In the context of the separation of powers doctrine, the Nevada Supreme Court has recognized
5 that the judiciary cannot truly function as an independent branch of government if it is not able to
6 require the disbursement of funds necessary to carrying out its basic duties. *State ex rel. Harvey v.*
7 *Second Judicial Dist. Ct.*, 117 Nev. 754, 770, 32 P.3d 1263, 1273 (2001). Similarly here, the
8 Commission cannot operate independently of the Legislature if it has no independent control of the
9 funding necessary to perform its duties. Indeed, the problem is exacerbated in this case because the
10 Petition declares the Commission to be part of the legislative branch and to be executing legislative
11 powers. Petition, Section 5A(7). That raises the question of whether it would itself be a violation of
12 the separation of powers doctrine should a court attempt to order the Legislature to fund the
13 Commission, or fund it in any particular way or amount. *Cf.* Ariz. Const. Art. 4, Part 2, Section 1(18)
14 (expressly granting the commission standing in court and the power to challenge the adequacy of its
15 funding).

16 3. The Description of Effect is inaccurate and misleading because the Commission is
17 not “independent.”

18 “[A]n initiative petition signer must be informed at the time of signing of the nature and effect
19 of that which is proposed. Failure to so inform the signatories and voters is deceptive and
20 misleading...” *Stumpf v. Lau*, 108 Nev. 826, 833, 839 P.2d 120, 124 (1992) (internal quotations
21 omitted).

22 The Petition’s Description of Effect states that the Petition would establish an “independent”
23 redistricting commission. The Description of Effect is invalid because it would mislead voters into
24 believing that the Commission is independent from the political influence of the Legislature and other
25 officials, when in fact it is not.

26 As discussed above, the Commission is not “independent” because a majority of the
27 Commission is directly appointed at the sole discretion of the legislative leadership. Additionally, the
28 Petition does not prevent Commissioners from running for or being appointed to an office

1 immediately after redistricting is complete. Finally, the Petition does not require that the Commission
2 be funded. Consequently, the Legislature will be able to exercise substantial, if not total, control over
3 the Commission by determining whom to appoint and how or whether to fund the Commission.

4 This case is closely analogous to *Las Vegas Taxpayer Accountability v. City Council of Las*
5 *Vegas*, 125 Nev. 165, 183-84, 208 P.3d 429, 441 (2009). In that case, the description of effect stated
6 that the petition would prevent the redevelopment agency from undertaking any *additional*
7 redevelopment projects in a certain area. *Id.* However, the actual effect of the petition would be to
8 stop *all* redevelopment projects, including those already underway. *Id.* The court held that the
9 description of effect was inaccurate and materially misleading and it invalidated the petition. *Id.*

10 In this case, the Description of Effect states that the Commission will be “independent,” but
11 the text of the Petition itself shows that to be an inaccurate statement of the Petition’s effect. Like in
12 *Taxpayer Accountability*, that inaccuracy renders the Description of Effect materially misleading
13 because the independence of the Commission is a critical factor for voters in determining whether to
14 support to the Petition. Accordingly, this Petition therefore violates NRS 295.009(1)(b) and cannot be
15 placed on the ballot.

16 **C. The Description of Effect inaccurately states that the Commission will create “fair**
17 **and competitive” districts.**

18 The U.S. Supreme Court recently held, again, that partisan gerrymandering presents a non-
19 justiciable political question. *Rucho v. Common Cause*, 139 S. Ct. 2484, 2506-07 (June 27, 2019).
20 Accordingly, the federal laws and the U.S. Constitution do not provide voters with any relief from
21 unfair partisan gerrymanders. The Petition’s Description of Effect represents that it will end partisan
22 gerrymandering in Nevada by creating “fair and competitive electoral districts.” But this is a promise
23 it cannot and will not keep. The Description of Effect is materially misleading because in fact the
24 Petition requires neither fairness nor competitiveness.

25 The Petition sets forth various criteria that the Commission must use when creating districts.
26 *See* Petition, 5B(1). The Petition states that the criteria must be followed in the order listed in the
27 Petition. *Id.* Most of these criteria reflect the general federal requirements to comply with the Voting
28 Rights Act and the one-person, one-vote doctrine. *See id.* In addition to these minimum requirements,

1 the Petition states that the Commission should ensure that the districts “do not unduly advantage or
2 disadvantage a political party.” *Id.* By use of the term “unduly,” it is clear that the Petition is designed
3 and intended to tolerate unfairness between the political parties. The Petition sets forth no definitions
4 or mechanism for determining when a party is “unduly” advantaged or disadvantaged. There will
5 obviously be disagreement on that question, and the lack of any guidelines leaves every plan open to
6 being challenged through litigation.

7 The Petition also invites other types of unfairness, besides partisan bias. The Petition contains
8 no requirements that the Commissioners fairly represent Nevada’s racial, language, ethnic, gender,
9 geographic, or demographic diversity. All of the Commissioners could be white, male, wealthy
10 residents of Las Vegas, for example. This would leave all other Nevadans without any formal
11 representation in drawing districts that, among other things, are supposed to keep communities intact,
12 while also ensuring that minorities retain their political voice.

13 Finally, partisan competitiveness is the very *last* of the criteria that the Commission is to
14 consider when drawing districts. The Petition provides that the criteria must be applied in the order
15 presented, so competitiveness will always be the last item considered. Petition, 5(B)(1). The Petition
16 in fact expressly makes competitiveness subordinate to all other criteria. *Id.* And most importantly,
17 the Petition does not even require that the Commission create competitive districts, and instead
18 instructs it to “consider” competitiveness “to the extent practicable.” *Id.*

19 In conclusion, the Description of Effect is inaccurate and materially misleading because it
20 states that the Commission will create “fair and competitive electoral districts,” but the Petition does
21 not in fact require “fairness,” nor does it require “competitive” districts. Voters will therefore be
22 misled into believing that the Petition will prevent partisan gerrymandering and that the Commission
23 will create truly fair and nonpartisan maps, when it actually need not do so.

24 **D. The Description of Effect is Invalid Because it Fails to Inform Voters of the Cost of**
25 **the Commission.**

26 As described above, the Petition does not provide for funding or any funding source for the
27 Commission. But in order to operate, the Commission necessarily needs funding. Redistricting is
28 complex and expensive, requiring specialized software and often involving special experts to analyze

1 the data. *See* LCB Bulletin No. 11-04, *supra* at 6. As described above, other states expressly require
2 the legislature to fund the commission, and typically set forth a formula intended to ensure that the
3 funding is adequate. Several years ago, California set a baseline of \$3 million, while Arizona used a
4 baseline of \$6 million.

5 However, the Description of Effect fails to describe any of these costs, nor does it notify voters
6 of these costs. Furthermore, the Petition is likely to generate more litigation over the validity of the
7 maps drawn by the Commission, because it states that no political party should be “unduly”
8 advantaged or disadvantaged, but provides no guidelines, safe harbors, or other mechanism for the
9 parties or the courts to evaluate when that criterion has been satisfied or when it has been violated.
10 This type of litigation will further increase the costs of redistricting.

11 Additionally, the Description of Effect fails to inform voters that the Commission will “undo”
12 whatever maps are drawn by the Legislature in 2021. The Description of Effect states that the
13 Commission will begin drawing maps in 2023, but fails to describe the practical consequence: that
14 the Legislature will have just drawn new districts 2021, which will only be operative for the 2022
15 election, and then the Commission will immediately start redrawing the maps. Thus the State will
16 potentially spend twice the resources (or more) as it would normally on redistricting efforts in the
17 three-year period following the 2020 census.

18 In *Coal. for Nev.'s Future v. RIP Commerce Tax, Inc.*, No. 69501, 2016 Nev. Unpub. LEXIS
19 153, at *5 (May 11, 2016) (unpublished decision – NRAP 36(c)), the Nevada Supreme Court held
20 that a referendum’s description of effect was deceptive because it failed to inform voters of its
21 practical consequences. The referendum’s description of effect accurately summarized the *legal*
22 effect it would have: it would repeal the commerce tax. *Id.* at *9-10. However, the description of
23 effect contained no description of the *practical* consequences of repealing the commerce tax, which
24 would be to unbalance the state budget for the biennium. *Id.* The court therefore held that the
25 referendum’s “description is deceptive for failing to accurately identify the practical ramification of
26 the commerce tax’s disapproval.” *Id.*

27 It is not enough for a petition’s description of effect to merely recite or summarize the
28 petition’s language. *See id.*; *Prevent Sanctuary Cities v. Haley*, 421 P.3d 281, No. 74966, 2018 Nev.

1 Unpub. LEXIS 442, at *9-10 (May 16, 2018) (unpublished decision – NRAP 36(c)). The purpose of
2 the description of effect is to inform the voters of the practical ramifications of the petition. Failure to
3 do so renders the description of effect deceptive and misleading.

4 Like in *RIP Commerce Tax* and *Prevent Sanctuary Cities*, the Petition’s Description of Effect
5 simply repeats the language of the Petition without actually informing voters of the Petition’s real
6 consequences. These practical consequences include at potentially doubling the cost of redistricting
7 for the 2020 census, and failing to inform voters that the Commission will require substantial
8 taxpayer funding to carry out its duties. Therefore, like the petitions in *RIP Commerce Tax* and
9 *Prevent Sanctuary Cities*, the Petition must be declared invalid for failure to comply with NRS
10 295.009(1)(b).

11 III. CONCLUSION

12 For the reasons discussed above, Plaintiff respectfully requests that the Court enter an order:

- 13 1. Declaring that the Petition does not comply with NRS 295.009(1)(b) and is therefore
14 invalid;
- 15 2. Prohibiting the Secretary of State from placing the Petition on any ballot; and,
- 16 3. Granting any other relief the Court deems just.

17 Dated this 26th day of November, 2019.

18
19 BENSON LAW, LLC

20
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28

Exhibit 2

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Exhibit 2

Interim Committees (/App/InterimCommittee/REL/Interim2021)
/ Committees (/App/InterimCommittee/REL/Interim2021/CommitteeList) / Legislative Interim Studies
/ Committee to Conduct an Investigation into Matters Relating to Reapportionment and Redistricting in Nevada

Committee to Conduct an Investigation into Matters Relating to Reapportionment and Redistricting in Nevada (SCR13 (<https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/8218/Overview>))

Overview Meetings Members Staff

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- Samuel J. Quast, Senior Deputy Legislative Counsel

Exhibit 3

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Exhibit 3

Website: <http://www.citygategis.com/products/autobound>

Desktop Application	Online Application	Staff Familiarity	Support	Pricing
<p>A. autoBound by Citygate GIS</p> <p>Desktop Application</p> <ol style="list-style-type: none"> 1. Built-in Census Data import tool that allows staff to begin processing data when Census releases it. Citygate GIS will also process and import data within 3-4 days. Includes most recent American Community Survey (ACS) population data estimates that can be used for redistricting projections now while waiting for Census data. 2. Create plans from scratch or existing plan with multiple assignment methods and advanced boundary editing tools. 4. Active matrix Excel spread sheet for displaying and computing district statistics. 5. Tools for compactness measurements and contiguity analysis. 6. Imports and disaggregates election results. 7. Export plans as GIS shapefiles, standard equivalency file formats, and Google Earth files. 8. Complete report writing system. 	<p>Mydistricting.com</p> <ol style="list-style-type: none"> 1. Web-based redistricting designed specifically for members of the public. 2. Users can create account and login on any device with internet connection. 3. Supported on both Windows and Linux systems and all modern browsers. 4. Easy to use and learn, based on Google Maps. 5. Import/Export tools and report tools. 6. Plan sharing and public commenting tool. 7. Available as perpetual license or monthly service. 	<p>Desktop application used during 2001 and 2011 redistricting.</p> <p>High comfort level with staff and great relationship with vendor.</p>	<p>Support during 2001 and 2011 redistricting was outstanding – widely available, even outside of regular business hours.</p> <p>\$5,500 per year.</p>	<p>\$53,000 - \$67,000</p> <p>Average price per license decreases as more licenses are purchased or if Mydistricting.com is bundled.</p> <p>Option 1: \$53,000</p> <ul style="list-style-type: none"> • 9 desktop licenses (including one year of support): 2 for LCB staff, 4 for session hires, 1 for NSHE, and 2 for public workstations <p>Option 2: \$67,000</p> <ul style="list-style-type: none"> • 7 desktop licenses (including one year of support): 2 for LCB staff, 4 for session hires, and 1 for NSHE • Perpetual Mydistricting.com license for public workstations (and available anywhere through internet connection) <p>Option 3: \$63,000</p> <ul style="list-style-type: none"> • 7 desktop licenses (including one year of support): 2 for LCB staff, 4 for session hires, and 1 for NSHE • 2-month Mydistricting.com license for public workstations (and available anywhere through internet connection)

B. Maptitude by Caliper Corporation

Desktop Application	Online Application	Staff Familiarity	Support	Pricing
<ol style="list-style-type: none"> 1. Caliper processes and provides Census data within 48 hours of release. 2. Create plans from scratch or existing plan with multiple assignment methods. 3. Active matrix that displays district statistics. 4. Tools for compactness measurements and contiguity analysis, including travel contiguity. 5. Imports and disaggregates election results. 6. Export plans as GIS shapefiles, standard equivalency file formats, and Google Earth files. 7. Complete report writing system. 	<p>Mapitude Online Redistricting</p> <ol style="list-style-type: none"> 1. Web-based redistricting designed specifically for members of the public. 2. Users can create account and login on any device with internet connection. 3. Supported on both Windows and Linux systems and all modern browsers. 4. Similar in complexity to desktop application. 5. Import/Export tools and report tools. 6. Available as 12-month license. 	<p>No previous experience with software.</p>	<p>By phone or email during regular business hours (EST). One year of support included in license cost.</p>	<p>\$72,000 - \$116,000</p> <p>Fixed cost of \$8,000 per license and \$60,000 for Maptitude Online Redistricting.</p> <p>Option 1: \$72,000</p> <ul style="list-style-type: none"> • 9 desktop licenses (including one year of support) <p>Option 2: \$116,000</p> <ul style="list-style-type: none"> • 7 desktop licenses (including one year of support) • Maptitude Online Redistricting license for one year

C. Esri Redistricting by Esri*

Website: <https://www.esri.com/en-us/arcgis/products/esri-redistricting/overview>

*For consideration for public redistricting software licenses only

Desktop Application	Online Application	Staff Familiarity	Support	Pricing
N/A	<ol style="list-style-type: none"> 1. Web-based software—no installation needed. Users can create account and login on any device with internet connection. Esri processes and provides census data. 2. Create plans from scratch or existing plan with multiple assignment methods. 3. Integrity checks for compactness and contiguity. 4. Reporting and thematic mapping. 5. Plan and user management and security. 6. Import/Export tools. 7. Available as 12-month license. 	<p>Based on Esri's ArcGIS software platform that is actively being used by staff now.</p>	<p>24/7 technical and operational support.</p> <p>One year of support included in license cost.</p>	<p>\$9,000 - \$140,000 (plus 7 desktop licenses from autoBound or Maptitude)</p> <p>Option 1: \$9,000</p> <ul style="list-style-type: none"> • Two individual web-based licenses for public workstations • Supports 2 concurrent users <p>Option 2: \$107,000</p> <ul style="list-style-type: none"> • On-Premise server installation • Supports up to 100 concurrent users • Accessible through public workstations or any device with internet connection <p>Option 3: \$140,000</p> <ul style="list-style-type: none"> • Managed Cloud Services • Supports up to 100 concurrent users • Accessible through public workstations or any device with internet connection

Exhibit 4

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Exhibit 4



NEVADA LEGISLATURE
COMMITTEE TO CONDUCT AN INTERIM STUDY OF
THE REQUIREMENTS FOR REAPPORTIONMENT AND
REDISTRICTING IN THE STATE OF NEVADA
([Senate Concurrent Resolution 9](#) [SCR] [2019])

SUMMARY MINUTES
May 27, 2020

The second meeting of the Committee to Conduct an Interim Study of the Requirements for Reapportionment and Redistricting for the 2019–2020 Interim was held on Wednesday, May 27, 2020, at 9:30 a.m. Pursuant to Section 1 of Governor Steve Sisolak's [Emergency Directive 006](#), there was no physical location for this meeting.

The agenda, minutes, meeting materials, and audio or video recording of the meeting are available on the Committee's [meeting page](#). The audio or video recording may also be found at <https://www.leg.state.nv.us/Video/>. Copies of the audio or video record can be obtained through the Publications Office of the Legislative Counsel Bureau (LCB) (publications@lcb.state.nv.us or 775/684-6835).

COMMITTEE MEMBERS PRESENT:

Senator Joyce Woodhouse, Chair
Assemblyman Jason Frierson, Vice Chair
Senator Yvanna D. Cancela
Senator Nicole J. Cannizzaro
Senator Heidi Seevers Gansert
Senator Pete Goicoechea
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Sandra Jauregui
Assemblyman Glen Leavitt
Assemblyman Howard Watts III

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Michael J. Stewart, Research Director, Research Division
Haley Proehl, Geographic Information Systems (GIS) Analyst/Redistricting GIS Specialist,
Research Division
Gayle Nadeau, Research Policy Assistant, Research Division
Kathy Steinle, Redistricting Specialist, Information Technology Services
Asher A. Killian, Senior Principal Deputy Legislative Counsel, Legal Division
Samuel J. Quast, Deputy Legislative Counsel, Legal Division

Items taken out of sequence during the meeting have been placed in agenda order.

AGENDA ITEM I—OPENING REMARKS AND INTRODUCTIONS

Chair Woodhouse called the second meeting of the Committee to Conduct an Interim Study of the Requirements for Reapportionment and Redistricting in the State of Nevada to order. She reminded the members and those listening over the Internet that SCR 9 of the 2019 Legislative Session is the genesis of this interim study.

Chair Woodhouse said the Coronavirus Disease of 2019 ([COVID-19](#)) affected the role of the Committee and halted, until recently, the gathering of 2020 Census counts by the United States Census Bureau. She noted the census activity delays would impact how the 2021 Legislative Session will conduct the redistricting exercise.

AGENDA ITEM II—PUBLIC COMMENT

Forrest Darby, Vice President, Nevada Alliance for Retired Americans, Las Vegas, commented on his written testimony regarding historical information on redistricting. ([Agenda Item II](#))

AGENDA ITEM III—APPROVAL OF THE MINUTES FOR THE MEETING HELD ON JANUARY 27, 2020

MOTION: Vice Chair Frierson moved to approve the minutes of the January 27, 2020, meeting. The motion was seconded by Senator Cannizzaro and passed. Senator Seevers Gansert was absent for the vote.

AGENDA ITEM IV—OVERVIEW OF THE PROGRAMS AND ACTIVITIES OF NEVADA'S OFFICE OF THE STATE DEMOGRAPHER AND DISCUSSION OF POPULATION TRENDS AND PROJECTIONS IN NEVADA

Jeff Hardcastle, AICP, Nevada State Demographer, Nevada's Department of Taxation, testified regarding his role as Nevada's State Demographer and on the projections and trends in Nevada from the past nine years and going forward. He said there was a decrease in population in the state from 2010 through 2019. However, Mr. Hardcastle said the components of the change have been different from previous records with less international and domestic migration, and there was a greater increase in deaths.

Mr. Hardcastle addressed the following matters identified in his slide presentation: ([Agenda Item IV A-1](#))

- [Assembly Bill 450](#) (Chapter 186, *Statutes of Nevada* 2019), which is an act relating to incarcerated persons;
- Revenue distribution estimates, how projections and estimates are used in Nevada, and how population projections and economic analysis are used;
- Coordinating with the U.S. Census Bureau to improve knowledge about the census and data quality;
- His involvement as chair of the Federal-State Cooperative for Population Estimates Steering Committee and participation in establishing various working groups;

- Ensuring a complete count for Nevada with a series of iterative processes such as the [Local Update of Census Addresses Operation](#) (LUCA);
- Through LUCA, the U.S. Census Bureau provides all the address information that it has in the master address file for an area;
- The daily, weekly, and monthly counting of hotel units, which are considered housing units, if the lodging is the person's usual place of residence;
- State and county level cumulative census count response rates for Nevada as of May 21, 2020;
- Revised operations due to current operational delays and the unknown impacts on the quality of the data and/or post enumeration survey;
- Trends and projections—Components of change to Nevada's population;
- Net migration for Clark and Washoe Counties;
- The decrease, over time, of California's net out-migration;
- Nevada by age cohort for 2010 through 2018;
- Four factors that fueled Nevada's population in the 1990s and early 2000s: (1) a monopolistic economy; (2) competitive housing prices; (3) the relatively easy development of infrastructure and land; and (4) a relatively stable national and international economy;
- The "great recession" and the COVID-19 global pandemic; and
- Maps tracking the global and U.S. outbreak of the coronavirus.

Discussion ensued between Vice Chair Frierson and Mr. Hardcastle regarding how accurate the state's projections have been to actual growth and how Nevada compares to other states, as well as the consequences relative to the degree of inaccurate projections.

To clarify, Mr. Hardcastle provided an example of how the 2010 census overestimated the population of Mesquite, Nevada. He said such an occurrence could have a negative economic impact on someone starting a business because the actual population base may not support such a venture.

Vice Chair Frierson asked what an average acceptable projection would be, to which Mr. Hardcastle said a standard range would be 5 percent higher or lower.

Continuing, Vice Chair Frierson asked whether the state is able to make annual adjustments or revise population estimates throughout a decade to become more accurate.

Mr. Hardcastle said population estimates for revenue distribution purposes in Nevada, as well as in other states, become certified and "fixed in time," which is why local governments have the right to appeal those estimates. He said the estimates the state produces are certified yearly. However, with receipt of the 2021 census data, the Census Bureau, as well as Nevada, will correct errors from the previous decennial census.

Assemblyman Watts asked how the Census Bureau counts Nevadans who reside in a monthly or weekly housing situation.

Mr. Hardcastle responded it was his understanding people living in a typical apartment receive a letter from the Census Bureau. However, for units that may be housing people in a transitory situation, the census staff will contact the complex manager to identify such units. If the manager is not able to provide this information, the counters will knock on every door and ask whether the location is the person's place of residence. He said even people contacted in recreational vehicles (RV), who indicate the RV is their usual place of residence, will be counted.

Assemblyman Watts asked whether there has been further tracking of migration trends due to the COVID-19 pandemic.

Mr. Hardcastle responded there has not been any apparent migration trends noted at the state level because of the pandemic. However, he said as businesses and activities continue to reopen and people once again begin to recreate, growth in the state may rebound.

Commenting on the decennial census and annual updates, Senator Gansert asked whether the resources from the federal government are fixed on the census numbers even though the population fluctuates within ten-year periods.

Mr. Hardcastle said it depends on the federal funding program, which uses more than 1,000 funding formulas, and some of the census data. He said some of the formulas rely on the population estimates or characteristics of the population that come from the American Community Survey. For example, statistics regarding education, income, poverty, and unemployment are gathered during the course of the decade.

Subsequent to the meeting, Mr. Hardcastle provided additional information that addressed many of Vice Chair Frierson's questions relating to demographic data collection. ([Agenda Item IV A-2](#))

AGENDA ITEM V—REVIEW OF ANTICIPATED REAPPORTIONMENT AND REDISTRICTING EFFORTS BY THE BOARD OF REGENTS, NEVADA SYSTEM OF HIGHER EDUCATION

Joe Reynolds, Chief General Counsel, Nevada System of Higher Education (NSHE), said the Board of Regents and NSHE are engaged in the redistricting process and look forward to working with the Committee and the Nevada Legislature. He stressed the Board of Regents' overall goal is to present a redistricting plan for consideration by the Legislature that is reliable and has integrity. ([Agenda Item V](#))

Mr. Reynolds discussed the following information during his presentation:

- NSHE's redistricting timeline;
- The Board of Regents' 13 nonpartisan districts and related maps;
- 2010 census population and racial data for NSHE's regent districts;
- 2010 through 2020 estimated population changes provided by LCB's Research Division;
- Statewide distribution of the Board of Regents' districts from the 2019 census data;
- State demographers' 2020 population projections for the Board of Regents' districts; and

- NSHE's 2018 American Community Survey estimates of population and racial data reports.

AGENDA ITEM VI—UPDATE ON DECENNIAL CENSUS OUTREACH EFFORTS IN NEVADA AND IMPACTS OF COVID-19 RESPONSE ON CENSUS ACTIVITIES

Kerry Durmick, MA, Nevada Census Coordinator, Nevada Census 2020, Office of the Governor, provided an update on Nevada's 2020 Census outreach before the COVID-19 pandemic and its ongoing effect on census activities. She discussed some of Nevada Census 2020's current challenges and activities to engage more citizens in the census process. ([Agenda Item VI](#))

Ms. Durmick's slide presentation covered the following matters:

- The Nevada Census 2020 Mission;
- Nevada's census regions;
- Recap of the January through March census operation;
- Census grants;
- COVID-19 operation changes;
- Census Bureau updates;
- Highlights of challenges;
- Nevada Legislature's friendly census competition between the Senate and Assembly;
- Status of self-response rates in Nevada; and
- Ideas to help the Nevada Census 2020 achieve its goal of a complete count in the state.

Assemblyman Leavitt asked where the Nevada Census 2020 statewide events were held and whether Ms. Durmick could provide the Committee with a list of past and future events.

Ms. Durmick said no further Nevada Census 2020 events would be held because of COVID-19; however, 1,000 educational events were held from November 2019 through March 2020. She pointed out that, in addition to activities held in Clark and Washoe Counties, there were three rural events, and at one point, there were 10 to 20 organizers in the rural areas. Ms. Durmick stated she would provide the Committee with a list of the number of people attending the past events.

AGENDA ITEM VII—UPDATE OF UNITED STATES CENSUS BUREAU ACTIVITIES, OUTREACH, AND CENSUS RESPONSE RATES IN NEVADA AND DISCUSSION OF CENSUS BUREAU RESPONSE TO THE COVID-19 PANDEMIC

Guillermo Gonzalez, Congressional Partnership Specialist, Los Angeles Regional Census Center, U.S. Census Bureau, U.S. Department of Commerce, provided an overview of the 2020 Census operational adjustments due to COVID-19. ([Agenda Item VII](#))

Mr. Gonzalez said, with guidance from the Centers for Disease Control and Prevention and state and local health officials, the Census Bureau has resumed operations in Las Vegas and North Las Vegas. He said these locations have incorporated public health officials' guidelines to ensure the safety of the public, as well as Census Bureau employees, so that a complete count is achieved in Nevada. Mr. Gonzalez shared the Census Bureau extended the self-response period to October 31, 2020.

Brian Lee Berman, Senior Partnership Specialist, Los Angeles Regional Census Center, U.S. Census Bureau, U.S. Department of Commerce, commented that Nevada is doing well with a 60.1 percent total self-response rate in comparison to the rest of the country. He demonstrated online census response links that are available to help the U.S. Census Bureau, as well as legislators and the public, follow self-response rates. Mr. Berman pointed out that the tools are important in allocating time and resources for census workers through the October 31, 2020, deadline to ensure the most accurate counts. Lastly, he stated all the maps are sharable by clicking on a "share widget" on each page.

Mr. Berman reviewed several Census Bureau response rate maps from the 2020 Self-Response by State link (<https://2020census.gov/en/response-rates.html>), which shows the status of self-responses in each state. These response rates are shown as percentages and can be displayed in various geographies, including by state, county, city, congressional district, and tribal area. Mr. Berman also highlighted several tables and available filtering options designed to review various data choices.

Discussion ensued between Senator Goicoechea and Mr. Berman regarding the number of online self-response rates received in the rural areas of Nevada at the time of the meeting. Mr. Berman noted the total rural responses are on the 2020 initial self-response online map (<https://2020census.gov/en/response-rates.html>). He shared that residents living in rural areas of Nevada are able to respond to the 2020 census online as well as by phone: (844) 330-2020 for English and (844) 463-2020 for Spanish.

AGENDA ITEM VIII—OVERVIEW OF SELECT LEGAL CONSIDERATIONS FOR REAPPORTIONMENT AND REDISTRICTING

Asher A. Killian, previously identified, stated the presentation by him and Samuel J. Quast, previously identified, would provide an overview of the legal principles the Committee, as well as the 2021 Legislature, must consider as it draws the redistricting plans from the 2020 census data. ([Agenda Item VIII](#))

The categories discussed by Mr. Killian and Mr. Quast covered:

- *Legal Parameters*—Various limitations are imposed on the redistricting process by a variety of sources.
 - Prevailing legal principles presented during the legal overview were distilled from numerous court decisions in the redistricting area.
- *Primary Federal Protections*—Two of the most important issues that must be considered when drawing districts are protections granted by the *U.S. Constitution* and federal law. Specifically, attaining population equality among districts and the equitable treatment of racial and language minorities.

- *Equal Population Measures*—Ideal population; population deviation; and overall range. Courts are primarily interested in the final range of overall deviation when determining the validity of a district plan based on population equality.
- *Equal Population Sources*—The equal protection clause of the *U.S. Constitution's* Fourteenth Amendment to both houses of a state legislature, which was decided by the U.S. Supreme Court in the case of [Reynolds v. Sims](#) in 1964, relies on the principal of "one person—one vote."
- *Equal Population Standards*—Two standards apply: (1) "strict equality" for Congressional districts; and (2) state legislative districts, which allow states some flexibility in drawing plans.
- *Equal Population (Congress)*—The U.S. Supreme Court has interpreted the *U.S. Constitution* to require that the population of each Congressional district for a state must be as nearly equal as practicable.
- *Equal Population (State Legislatures)*—The U.S. Supreme Court has set forth the standard of achieving "substantial equality of population" among various districts.
- *Racial and Language Minorities Sources*—Another important consideration when drawing districts is the equitable treatment of minorities. If there is a challenge to a redistricting plan under Section 2 of the Voting Rights Act of 1965, a plaintiff must meet certain preconditions that were articulated by the U.S. Supreme in the 1986 case of [Thornburg v. Gingles](#).
- *Racial and Language Minorities Racial Gerrymandering*—If a court determines traditional districting principles were subordinated to race, and race was the predominant factor used in drawing a district, a court will apply strict scrutiny to analyze whether the state had a compelling interest in drawing a district and whether a district was narrowly tailored to achieve that interest.
- *Traditional Districting Principles*—States often consider secondary factors beyond equal population and the equitable treatment of minorities when drawing maps, such as compactness, contiguity, preservation of communities of interest, et cetera.
- *Nevada Constitution*—Mr. Killian pointed out several specific provisions in Nevada's Constitution that the Committee should be aware of, which are listed on the slide titled "Nevada Constitution." ([Agenda Item VIII](#))
- *Census Data Delay*—Complying with the various requirements discussed requires a careful analysis of the census data. Due to the COVID-19 pandemic, it is very likely that the Census Bureau will not make the necessary census data available to Nevada until after the conclusion of the 2021 Legislative Session.

Mr. Killian stressed that because Nevada's Legislature meets biennially, if Census data delivery is delayed as proposed by the Bureau, no regular session will occur between receiving the 2020 census data, leaving the Legislature without an opportunity to redistrict before the next general election. Therefore, he stated it is the opinion of LCB's Legal Division that if the Legislature does not enact a new redistricting plan based on the 2020 census data prior to the 2022 Elections, there is a significant risk a court will either order a special session or impose a court-drawn interim plan.

In summary, Mr. Killian stated there are two mandatory principles the Nevada Legislature must follow during the process of redistricting: (1) equal population and the equitable

treatment of racial and language minorities; and (2) compliance with the Voting Rights Act of 1965.

Referring to the slide showing the 2010 redistricting table on the Equal Population for Congress, Vice Chair Frierson asked why some states' population deviation is more than one, while it was his understanding a Congressional district's deviation should be zero to one. ([Agenda Item VIII](#))

Mr. Killian said the states on the table showing a Congressional deviation of more than one person have substantially smaller counties and populations spread more broadly amongst their counties than Nevada. He explained there are states where the courts, in certain special cases, have upheld tiny deviations so that counties or municipalities may remain intact.

AGENDA ITEM IX—OVERVIEW OF OPTIONS AND RECOMMENDATIONS CONCERNING THE USE AND ACQUISITION OF REDISTRICTING GEOGRAPHIC INFORMATION SYSTEMS SOFTWARE AND HARDWARE AND DISCUSSION REGARDING THE POSSIBLE HIRING OF LCB SESSION STAFF FOR GEOGRAPHIC INFORMATION SYSTEMS OPERATIONS

Haley Proehl, previously identified, presented three GIS software programs—autoBound, Maptitude, and Esri Redistricting—for the Committee to consider when making a recommendation to the Legislative Commission for redistricting software to use during the 2021 Legislative Session's redistricting exercise. She referenced five categories—desktop application, online application, staff familiarity, support, and pricing—for comparing the options. ([Agenda Item IX A-1](#))

Ms. Proehl discussed the three software programs in detail:

1. autoBound by Citygate GIS—The program has a built-in Microsoft Excel spreadsheet matrix that actively displays population and racial statistics for each district and updates the data in real time as changes to boundaries are made. The program has a tool that imports and aggregates election results. In the past, Nevada has used election data, which the census bureau does not provide, when redistricting; it is helpful to have this tool to aggregate imported data to the census block level. ([Agenda Item IX A-2](#))
2. Maptitude by Caliper Corporation—Like autoBound, this program offers desktop and online redistricting applications, as well as tools to create plans that meet legal requirements. However, Maptitude does not have a tool for staff to import redistricting data, but instead, Caliper Corporation processes the data and provides it via an electronic download. The program does not include [American Community Survey](#) (ACS) estimates, so there is little pre-redistricting value with Maptitude, and its active matrix does not allow custom calculations as does autoBound's Microsoft Excel feature. Additionally, there is not a public commenting tool with Maptitude's online application in comparison to autoBound's online application. ([Agenda Item IX A-3](#))
3. Esri Redistricting by Esri—This program is web-based and presented only for licensing consideration to use for public redistricting workstations. ([Agenda Item IX A-4](#))

Assemblywoman Jauregui noted autoBound is the redistricting software LCB GIS staff has worked with in the past; however, she asked whether Maptitude was included for consideration because it may be a program LCB staff is interested in using.

Ms. Proehl said Maptitude was included because it meets the functionality requirements, and staff focused on presenting unbiased redistricting software options. However, she noted autoBound has a few benefits compared to Maptitude, including dependable software and technical support based on previous experience. It is also a well-priced option, and staff has an established relationship with the vendor.

Senator Gansert asked whether there is a disadvantage to the autoBound program.

Ms. Proehl responded the GIS staff does not view using autoBound again as a disadvantage. If anything, she noted, autoBound has the necessary tools to create many plans that Maptitude does not have. In addition, autoBound meets the legal requirements for redistricting. Ms. Proehl added that autoBound offers an ACS estimates feature that could be used to make projections while waiting for the actual 2020 census data.

Senator Gansert asked whether upgrading to the perpetual subscription is allowable after possibly purchasing the less expensive two-month subscription.

Ms. Proehl said it was her understanding a decision is needed at the time of purchasing either the monthly or the perpetual option. Waiting to make a decision on which option to purchase until knowing how long the redistricting process would last would help determine which license to purchase. She commented the actual cost of the monthly service is \$8,500, so after two months, there is no cost advantage to purchasing a monthly option.

Senator Gansert asked whether receipt of the 2020 census data is required before starting the redistricting task or whether scenarios could be developed in the meantime based on assumptions.

Ms. Proehl said the goal is to purchase at least the staff licenses a few months prior to the release of the 2020 census data in order for staff to learn the software well enough and practice updating data so that they can assist legislators and other staff who need to use the GIS program. Therefore, she said, having the autoBound program prior to the release of the census data would enable the creation of various scenarios, maps, and projecting plan assumptions.

Michael J. Stewart, previously identified, discussed the position requirements for the 2020-2021 Session GIS technicians who would support legislators before and during the 2021 redistricting undertaking, if the Legislative Commission approves the possible hiring of GIS technicians.

Mr. Stewart proceeded to review the job description for a GIS technician. He noted the Nevada Legislature approved hiring four GIS technicians for the 2011 redistricting exercise and assigned one to each caucus to assist legislators in a nonpartisan capacity with GIS questions. Mr. Stewart said the typical employment period for this position is between six and nine months. ([Agenda Item IX B](#))

Considering the COVID-19 social distancing needs, Vice Chair Frierson and Mr. Stewart discussed the location of offices for the potential GIS technicians. Mr. Stewart stated LCB is reviewing spacing to ensure social distancing is a priority in the caucus rooms and staff offices throughout the buildings during the 2021 Legislative Session.

Kathy Steinle, previously identified, reported on the essential hardware needs to support the redistricting software and staffing configurations during the 2021 Legislative redistricting undertaking. She said the costs noted in her handout are estimates, and some savings may

be realized when the hardware is purchased. Ms. Steinle also shared that LCB staff will be able to use the hardware after the redistricting task is completed. ([Agenda Item IX C](#))

Chair Woodhouse suggested the Committee recommend to the Legislative Commission to purchase under the 2021 Session budget the autoBound software, up to \$67,000, and the necessary hardware and hire 2021 Session GIS staff—only if necessary due to the census data delays caused by the COVID-19 situation.

MOTION: Senator Cannizzaro moved to recommend to the Legislative Commission the purchase, under the 2021 Session budget, of the autoBound software up to \$67,000; the authorization to purchase necessary hardware for GIS services; and the authorization to hire, if necessary, LCB session hires for GIS work. Vice Chair Frierson seconded the motion. The motion passed. Assemblywoman Benitez-Thompson was absent for the vote.

AGENDA ITEM X—REVIEW AND DEVELOPMENT OF THE INTERNET WEBSITE REGARDING THE NEVADA LEGISLATURE’S REAPPORTIONMENT AND REDISTRICTING EFFORTS

Haley Proehl, previously identified, demonstrated the Nevada Legislature’s GIS redistricting website pertaining to the 2021 reapportionment and redistricting cycle. She said the website debuted on May 1, 2020, and is offered to legislators, stakeholders, and members of the public as a resource for information and data about reapportionment and redistricting in Nevada. Ms. Proehl called attention to her document about the 2121 website, which references additional resources about the website. ([Agenda Item X](#))

AGENDA ITEM XI—BRIEF REVIEW OF REAPPORTIONMENT AND REDISTRICTING RESOURCES, MATERIALS, AND OTHER INFORMATION

Michael J. Stewart, previously identified, briefly discussed the following three informational items the Committee may find helpful during its work on preparing its recommendations to the 2021 Legislative Session regarding the redistricting exercise:

1. A letter to the U.S. House Committee on Oversight and Reform from the National Conference of State Legislatures (NCSL), concerning census delays and the use of differential privacy statistical methods to meet the goal of avoiding disclosure of individual resources and how such methodology could affect small level geographies transmitted to the states ([Agenda Item XI A-1](#));
2. A document from April 17, 2020, about state redistricting deadlines, which includes a table with data about the redistricting deadlines for the states and which is helpful to note how states are handling various census delivery issues ([Agenda Item XI A-2](#)); and
3. A document titled “Status of Current Operations” listing area census offices that are restarting operations, resuming field operations, and completing the hiring process for nonresponse follow-up field staff under new COVID-19 guidelines. ([Agenda Item XI A-3](#))

AGENDA ITEM XII—DISCUSSION OF FUTURE MEETING DATES AND POTENTIAL AGENDA TOPICS FOR FUTURE MEETINGS

Chair Woodhouse shared that the Committee would seek an extension from the Legislative Commission to extend its operations, which has been the case for this interim study committee in the past, in order to complete its task to make necessary redistricting recommendations to the Legislature during a decennial census year.

Chair Woodhouse proposed holding the third meeting of the Committee in mid-August and the fourth meeting in mid to late October, which is closer to the revised census deadline of October 31 and the 2020 General Election. She said staff would communicate with the Committee to schedule the last two meetings.

AGENDA ITEM XIII—PUBLIC COMMENT

Forrest Darby, previously identified, commented he would meet with his grassroots redistricting team to discuss the matters presented at the meeting. Subsequent to the meeting, he emailed the Committee the opinions of the grassroots team. ([Agenda Item XIII A](#))

Subsequent to the meeting, Doug Goodman, Founder and Executive Director, Nevadans for Election Reform, submitted written public comment concerning Agenda Item VIII relating to legal considerations for reapportionment and redistricting. ([Agenda Item XIII B](#))

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AGENDA ITEM XIV—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 1:37 p.m.

Respectfully submitted,

Gayle Nadeau

Research Policy Assistant

Michael J. Stewart

Director, Research Division

APPROVED BY:

Senator Joyce Woodhouse, Chair

Date: August 27, 2020

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MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item II	Forrest Darby, Vice President, Nevada Alliance for Retired Americans, Las Vegas	Prepared remarks
Agenda Item IV A-1	Jeff Hardcastle, AICP, Nevada State Demographer, Nevada's Department of Taxation (NDT)	Microsoft PowerPoint presentation
Agenda Item IV A-2	Jeff Hardcastle, AICP, Nevada State Demographer, NDT	Demographic information
Agenda Item V	Joe Reynolds, Chief General Counsel, Nevada System of Higher Education	Microsoft PowerPoint presentation
Agenda Item VI	Kerry Durmick, MA, Nevada Census Coordinator, Nevada Census 2020, Office of the Governor	Microsoft PowerPoint presentation
Agenda Item VII	Guillermo Gonzalez, Congressional Partnership Specialist, Los Angeles Regional Census Center, United States Census Bureau, U.S. Department of Commerce	Information on 2020 Census operational adjustments due to COVID-19
Agenda Item VIII	Asher A. Killian, Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau (LCB), and Samuel J. Quast, Deputy Legislative Counsel, Legal Division, LCB	Microsoft PowerPoint presentation
Agenda Item IX A-1	Haley Proehl, Geographic Information Systems (GIS) Analyst/Redistricting GIS Specialist, Research Division, LCB	Data table regarding redistricting software options
Agenda Item IX A-2	Haley Proehl, GIS Analyst/Redistricting GIS Specialist, Research Division, LCB	Brochure about autoBound's redistricting software
Agenda Item IX A-3	Haley Proehl, GIS Analyst/Redistricting GIS Specialist, Research Division, LCB	Brochure about Maptitude's redistricting software
Agenda Item IX A-4	Haley Proehl, GIS Analyst/Redistricting GIS Specialist, Research Division, LCB	Brochure about Esri's redistricting software

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item IX B	Michael J. Stewart, Research Director, Research Division, LCB	LCB job description for a geographic information systems technician
Agenda Item IX C	Kathy Steinle, Redistricting Specialist, Information Technology Services, LCB	Data sheet regarding redistricting hardware essentials
Agenda Item X	Haley Proehl, GIS Analyst/Redistricting GIS Specialist, Research Division, LCB	Informational document about Nevada's 2021 reapportionment and redistricting website
Agenda Item XI A-1	Michael J. Stewart, Research Director, Research Division, LCB	National Conference of State Legislatures' (NCSL) letter to the U.S. House Committee on Oversight and Reform
Agenda Item XI A-2	Michael J. Stewart, Research Director, Research Division, LCB	Document about state redistricting deadlines
Agenda Item XI A-3	Michael J. Stewart, Research Director, Research Division, LCB	Document concerning current census operations in cities throughout the United States
Agenda Item XIII A	Forrest Darby, Vice President, Nevada Alliance for Retired Americans, Las Vegas	Email concerning suggested boundary lines for certain congressional districts
Agenda Item XIII B	Doug Goodman, Founder and Executive Director, Nevadans for Election Reform	Email regarding legal considerations for redistricting

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