

HALE LANE

ATTORNEYS AT LAW

777 East William Street | Suite 200 | Carson City, Nevada 89701
Telephone (775) 684-6000 | Facsimile (775) 684-6001
www.halelane.com

ROSS MILLER
SECRETARY OF STATE

2008 JUN -2 P 5:04

SCOTT SCHERER

sscherer@halelane.com
Direct: (775) 684-6015
CARSON CITY
NEVADA

June 2, 2008

VIA FACSIMILE AND HAND DELIVERY

Ross Miller
Nevada Secretary of State
101 N. Carson Street, Suite 3
Carson City, NV 89701

**RE: Funding Nevada's Priorities Act
Education Enhancement Act
Nevada Taxpayers Protection Act**

Dear Mr. Secretary:

We are in receipt of the Determination of Certified Signatures, dated May 30, 2008 ("Certification"), which states that zero (0) signatures were certified by the county clerks as valid for the above-mentioned initiative petitions (collectively the "Petitions").

Attached please find an Appeal of the Certification pursuant to NRS 293.12793 and NRS 293.12795.

If you have any questions, comments or concerns, please contact our office.

Sincerely,



Scott Scherer
Timothy Clausen

SS/TMC

HALE LANE PEEK DENNISON AND HOWARD

RENO OFFICE: 5441 Kietzke Lane | Second Floor | Reno, Nevada 89511 | Phone (775) 327-3000 | Facsimile (775) 786-6179
LAS VEGAS OFFICE: 3930 Howard Hughes Parkway | Fourth Floor | Las Vegas, Nevada 89169 | Phone (702) 222-2500 | Facsimile (702) 365-6940

1 **CERTIFICATION OF SIGNATURES VERIFIED**)
2 **BY COUNTY CLERKS PERTAINING TO THE**)
3 **EDUCATION ENHANCEMENT ACT**)
4 **(“EDUCATION INITIATIVE”),**)
5 **NEVADA TAXPAYERS PROTECTION ACT**)
6 **(“TAXPAYER INITIATIVE”),**)
7 **AND THE FUNDING NEVADA’S**)
8 **PRIORITIES ACT (“PRIORITIES INITIATIVE”)**)

9
10 **APPEAL OF THE CERTIFICATION OF SIGNATURES VERIFIED BY COUNTY**
11 **CLERKS DETERMINED INSUFFICIENT**
12

13 The Proponents of the initiative petitions Education Enhancement Act, Nevada
14 Taxpayers Protection Act, and the Funding Nevada’s Priorities Act (collectively the “Petitions”)
15 hereby submit their Appeal of the Certification of Signatures Verified by County Clerks
16 Determined Insufficient, pursuant to NRS 293.12793 and NRS 293.12795.

17 On May 30, 2008, the Secretary of State provided to the Proponents of the Petitions the
18 Certification of Signatures Verified by County Clerks Determined Insufficient (“Certification”).
19 The Certification states that zero (0) signatures were certified by the county clerks as valid for
20 the Petitions. Based on the Certification and the Memorandum (as defined below), the
21 Proponents believe the county clerks found that 118,410 signatures for the Funding Nevada’s
22 Priorities Act were invalid; 119,894 signatures for the Education Enhancement Act were invalid;
23 and 130,541 signatures for the Nevada Taxpayers Protection Act were invalid. Pursuant to
24 NRS 293.12793 and NRS 293.12795, the Proponents are writing to appeal the certification
25 results.¹ For the reasons stated below, the Proponents respectfully request that the Secretary of
26 State direct the county clerks to recertify the signatures on the Petitions as specifically prescribed
27 by the Nevada Revised Statutes.

28 On May 20, 2008, the Las Vegas Convention and Visitors Authority and Nevadans for
Nevada (collectively the “Challengers”) submitted complaints to the Secretary of State’s office

¹ Because the process followed by the county clerks in verifying signatures was pursuant to the Secretary of State’s specific direction, and because he lacked authority to give that direction, the Proponents question whether this appeal is legally required. Nevertheless, in a spirit of cooperation, the Proponents are filing this appeal to give the Secretary of State the opportunity to reconsider his prior decision and to direct the county clerks to recertify the signatures according to the appropriate legal standard.

1 contending that the Petitions are legally insufficient and should be invalidated as such. The
2 Proponents for the Petitions submitted a written response to the Secretary of State (the
3 “Response”), which showed that the Petitions satisfy all applicable constitutional requirements
4 and substantially comply with all statutory provisions. A copy of the Response is attached hereto
5 and incorporated herein by this reference. In a letter dated May 27, 2008, the Secretary of State
6 stated that “only signatures on Petitions submitted with affidavits in compliance with
7 NRS 295.0575 and NAC 295.020 can be verified.” (the “Conclusion”). The Conclusion was
8 forwarded to the county clerks in Nevada with the specific direction to verify only those
9 signatures on any Petitions upon which the affidavits conform to NRS 295.0575 and
10 NAC 295.020.

11 The Conclusion is flawed because it fails to apply the substantial compliance standard
12 required by Nevada law and dictates a remedy that is not authorized by the Nevada Revised
13 Statutes.² It creates an additional requirement for county clerks to determine the validity of
14 signatures that is in conflict with specific statutory requirements. Even if the Petitions did not
15 substantially comply with NRS 295.075 and NAC 295.020, under all of the facts and
16 circumstances of this case, as set forth herein and more fully set forth in the Response, the
17 remedy imposed for the alleged violations is an abuse of discretion.

18 The Conclusion ignores the fact that the Nevada Administrative Code provides for two
19 different types of affidavit of circulators that may be attached to an initiative petition, one of
20 which is attached to the Petitions. *See* NAC 293.182 and NAC 295.020. Also, the Conclusion
21 fails to address numerous arguments raised in the Response. Specifically, the Conclusion fails to
22 cite the statutory authority that allows the Secretary of State to determine the Petitions’ legal
23 sufficiency in conflict with the specific requirements of NRS 295.061.

24 The Conclusion also ignores the constitutional arguments raised in the Response,
25 including that NRS 295.0575 is unconstitutional because it conflicts with the specific
26 requirements set for in Article 19 Section 3 of the Nevada Constitution and violates the First
27

28 ² It cannot be presumed that the Legislature intended to disenfranchise hundreds of thousands of Nevada voters. Where the Legislature intends to preclude ballot access, they have specifically said so. *See, e.g.*, Nev. Rev. Stat. § 293.177 (2007).

1 Amendment of the United States Constitution. Further, the Conclusion deprives the people of
2 their right to vote on these ballot questions in violation of Article 2 of the Nevada Constitution.
3 Nev. Const. Art. 2, § 1.

4 Despite the legal issues that remain unanswered by the Conclusion, on May 28, 2008, the
5 Secretary of State forwarded a memorandum to the county clerks for each Petition that stated
6 each Petition contained more than one hundred percent of the total number of signatures required
7 from each county and should be verified ("Memorandum"). In the Memorandum, the Secretary
8 of State states, "I am hereby directing each of you to verify the signatures in accordance with the
9 directions set forth in the correspondence sent to you dated May 27, 2008." Nevada Revised
10 Statutes Chapter 293 discusses the verification process for signatures on petitions. After
11 circulation, petitions are submitted to the county clerks, who in turn determine the total number
12 of signatures affixed to the documents and forward that number to the Secretary of State.
13 NRS 293.1276(1). If the Secretary of State finds the total number of signatures submitted to all
14 the county clerks is 100 percent or more of the number of registered voters required to declare
15 the petitions sufficient, he shall immediately notify the county clerks, who within nine (9) days
16 ***shall determine the number of registered voters who have signed the documents in his county.***
17 NRS 293.1277(1).

18 The Memorandum provides that the county clerks comply with the signature reporting
19 requirements of NRS 293.1276. Further, the Memorandum states that the Secretary of State
20 found the Petitions contained more than one hundred percent of the total number of signatures
21 required and directed the county clerks to verify the signatures. The Memorandum shows,
22 however, that the county clerks, at the Secretary of State's direction, used a process contrary to
23 the specific legal requirements of the Nevada Revised Statutes to verify the signatures on the
24 Petitions.

25 Nevada law is explicit as to how the county clerks determine the validity of signatures
26 attached to petitions. Section 293.1277(3) of the Nevada Revised Statutes states that "the county
27 clerk ***shall rely only*** on the appearance of the signature and the address and date included with
28 each signature in making his determination." Nev. Rev. Stat. § 293.1277 (3) (2007) (emphasis

1 added). There is no provision that allows the county clerks to deviate from this requirement or
2 review any other portion of the Petitions in verifying the validity of the signatures. As cited by
3 the Secretary of State in the Conclusion and Certification, the Nevada Supreme Court has held
4 that language such as “must” and “shall” designate a requirement that is mandatory in its
5 application. *See Fouchier v. McNeil Const. Co.*, 68 Nev. 109, 227 P.2d 429 (1951). Therefore,
6 the county clerks have a mandatory requirement to determine the validity of signatures *only*
7 based on their appearance, the address, and the date included.

8 The Memorandum directed the county clerks to “verify signatures in accordance with the
9 directions set forth in the correspondence sent to you dated May 27, 2008.” This direction is
10 contrary to the specific legal requirements of NRS 293.1277 and cannot be followed by the
11 county clerks. If the county clerks verified the Petitions in any manner contrary to the
12 requirements set forth in NRS 293.1277, including reviewing the attached affidavit of circulator,
13 then this would conflict with the legal requirements set in place by the Nevada Legislature and
14 result in determination of an incorrect number of valid signatures attached to the Petitions.

15 Section 293.1277(7) of the Nevada Revised Statutes states the Secretary of State may by
16 *regulation* establish further procedures for carrying out the verification process. The Nevada
17 Administrative Code, however, does not contain an adopted regulation that allows for the county
18 clerks to determine the validity of signatures in a process inconsistent with NRS 293.1277.³ Nor
19 does the Nevada Administrative Code specifically include an additional requirement that the
20 county clerk must review affidavits of circulators to verify the validity of signatures. As a result,
21 neither the Nevada Revised Statutes nor the Nevada Administrative Code allows for the county
22 clerks to review the affidavit of circulators during the verification of signatures.

23 Title 24 of the Nevada Revised Statutes must be liberally construed so that the real will of
24 the electors is not defeated by any informality or by failure to substantially comply with the
25 provisions of Title 24. NRS 293.127. As fully discussed in the Response, the Petitions strictly
26 comply with all applicable constitutional requirements and substantially comply with the
27 statutory and regulatory requirements. Pursuant to NRS 293.127, the Secretary of State should

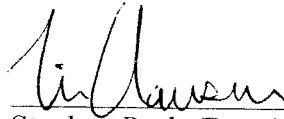
28 ³ NAC 293.185 does provide guidance in determining the validity of signatures if there is a discrepancy in the
signer’s address, however, that does not appear to apply in the present situation.

1 apply a liberal construction of Title 24, which would only further support that the Petitions
2 comply with all requirements and are valid. However, the direction the Secretary of State gave
3 shows a disregard for NRS 293.127. That direction is not only in conflict with Nevada law, it
4 also disregards the will of the voters.

5 Therefore, for the reasons stated above, and pursuant to NRS 293.12793 and
6 NRS 293.12795, the Proponents respectfully request that the Secretary of State order the county
7 clerks to verify all the signatures attached to the Petitions solely by the process specified in
8 NRS 293.1277, and to recertify the correct number of valid signatures attached to the Petitions to
9 the Secretary of State's office using only the process specified in the statute.

10 In addition to the facts and arguments set forth above, the Proponents hereby specifically
11 incorporate all of the facts and arguments set forth in the Response, which is attached hereto as
12 Exhibit A and incorporated herein by this reference.

13 DATED this 2nd day of June, 2008.

14
15 

16 _____
17 Stephen Peek, Esq. (Nevada Bar No. 1758)
18 Scott Scherer, Esq. (Nevada Bar No. 0087)
19 Brad M. Johnston, Esq. (Nevada Bar No. 8515)
20 Timothy M. Clausen, Esq. (Nevada Bar No. 10005)
21 Hale Lane Peek Dennison and Howard
22 777 E. William Street, Suite 200
23 Carson City, NV 89701
24 (775) 684-6000; (775) 684-6001 (fax)
25 Attorneys for Proponents of Petitions
26
27
28

HALE LANE

ATTORNEYS AT LAW

777 East William Street | Suite 200 | Carson City, Nevada 89701
Telephone (775) 684-6000 | Facsimile (775) 684-6001
www.halelane.com

SCOTT SCHERER

sscherer@halelane.com
Direct: (775) 684-6015

May 22, 2008

VIA FACSIMILE AND HAND DELIVERY

Ross Miller
Nevada Secretary of State
101 N. Carson Street, Suite 3
Carson City, NV 89701

**RE: Funding Nevada's Priorities Act
Education Enhancement Act
Nevada Taxpayers Protection Act**

Dear Mr. Secretary:

We are legal counsel for the proponents of the above mentioned initiative petitions ("Petitions"). As requested by your letter dated May 20, 2008, I am responding to the allegations raised by the Las Vegas Convention and Visitors Authority ("LVCVA") and Nevadans For Nevada ("AFL-CIO") (collectively "Challengers"). The Challengers' allege that the Petitions are legally insufficient and should be invalidated as such. Contrary to the Challengers' allegations, the Petitions satisfy all constitutional requirements and substantially comply with all statutory provisions. In addition, the Challengers' allegations of legal deficiencies are premature and are required to be brought in the First Judicial District Court, if at all, not with the Secretary of State.

The Petitions at issue are the Funding Nevada's Priorities Act ("Priorities Initiative"), the Education Enhancement Act ("Education Initiative") and the Nevada Taxpayers Protection Act ("Taxpayer Initiative"). The Petitions were filed with the Secretary of State prior to circulation pursuant to NRS 295.015. Subsequently, the LVCVA filed a legal challenge against the Priorities Initiative and the Education Initiative alleging that both initiatives were invalid for failing to comply with the statutory requirements of NRS 295.009 and for other constitutional violations. AFL-CIO filed a legal challenge against the Taxpayer Initiative alleging that the initiative's Description of Effect did not comply with the legal requirements of NRS 295.009. In both cases, the District Court upheld the validity of the Petitions and, as a result, Challengers have appealed both cases. This latest request to invalidate the Petitions due to claimed omissions is just the Challengers' most recent attempt to keep the citizens of Nevada from exercising their constitutional right to enact law through the initiative process.

HALE LANE PEEK DENNISON AND HOWARD

RENO OFFICE: 5441 Kietzke Lane | Second Floor | Reno, Nevada 89511 | Phone (775) 327-3000 | Facsimile (775) 786-6179
LAS VEGAS OFFICE: 3930 Howard Hughes Parkway | Fourth Floor | Las Vegas, Nevada 89169 | Phone (702) 222-2500 | Facsimile (702) 365-6940

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Article 19 of the Nevada Constitution reserves for the people the right to propose by initiative petition amendments to the Constitution and to enact or reject those amendments at the polls. More than 110,000 Nevada residents signed each of the Petitions. We believe that the Petitions were signed by more Nevadans than any other petitions in the history of the State of Nevada.

This is not merely about the proponents of the Petitions or the opposition of the Challengers. Each of those 110,000+ citizens who signed the Petitions has a First Amendment right to participate in government through the initiative process. The Challengers want to hinder the citizens' constitutional right to enact or reject proposed amendments through the initiative process and will find any technicality to keep the Petitions off the ballot.

As stated by the California courts: "initiative and referendum are not rights granted to the people, but . . . power[s] reserved by them. Declaring it 'the duty of the court to jealously guard this right of the people' the courts have described the initiative . . . as articulating 'one of the most precious rights of our democratic process.' It has long been our judicial policy to apply a liberal construction to this power wherever it is challenged in order that the right not be improperly annulled. If doubts can reasonably be resolved in favor of the use of this reserved power, courts will preserve it.'" *Zarembeg et al. v. The Superior Court of Sacramento County*, 115 Cal.App.4th 111, 8 Cal.Rptr.3d 723, 726-27 (Cal. Ct. App. 2004).

To invalidate the Petitions, which strictly comply with all valid constitutional requirements and substantially comply with the statutory and regulatory requirements, would be contrary to the people's right and reserved power. *See also, Nevadans for the Protection of Property Rights v. Heller*, 122 Nev. 390, 141 P.3d 1235 (2006), where the Nevada Supreme Court stated that it "must make every effort to sustain and preserve the people's constitutional right to amend their constitution through the initiative process." Invalidating the Petitions would be contrary to these principles.

When the Petitions were drafted, the proponents specifically followed the instructions and forms attached to the "State of Nevada, Initiative & Referendum Guide, 2008" (revised 8.28.07) (the "Guide") created and provided by your Office. I have attached a copy of the Guide for your review. The title of the Guide specifically states "2008," which gives the perception that it is the Guide to be used for the 2008 initiative process.

Included in the Guide under the section "Statewide Initiative Petition, Amend the Nevada Constitution" is the statement "[a] copy of the Affidavit of Circulator is included in the appendix." Guide, p. 4. As you will see, the "Sample Initiative Petition" contains a copy of the affidavit of circulator that is identical to the one attached to the Petitions. Guide, pp. 23 and 25. As you are aware, NRS 293.247(2) and NRS 295.055 specifically require the Secretary of State to prescribe the form for an initiative petition. The Guide includes the form prescribed by the Secretary of State pursuant to state law – the same form the proponents followed to draft the Petitions. Contrary to the assertions of the Challengers, at least three other initiative petitions filed this year used the form of affidavit in the Guide. *See Hemp for Biomass*, filed May 8,

2008; Clean and Open Government Amendment, filed February 25, 2008 and withdrawn March 27, 2008; Tax Backed Lobbying Ban, filed February 25, 2008 and withdrawn March 27, 2008.

The Guide was revised after NRS 295.0575 took effect on July 1, 2007. Although the Petitions omit certain requirements of NRS 295.0575, they are identical to the forms prescribed by the Secretary of State's Office pursuant to Nevada law and originally included in the 2008 Guide. The Guide has since been updated (the "Revised Guide") to include a new affidavit of circulator, but still contains the old version of NAC 295.020, which prescribes the form of circulator's affidavit contained in the Petitions.¹ See Revised Guide, p. 52. It appears that the Revised Guide was created on March 13, 2008, after the Petitions at issue in this case were filed.² Where the Secretary of State, having been charged with prescribing the requisite forms, disseminates two different forms, both should be upheld.

The claimed omissions from the Petitions' Affidavits of Circulator are statutory requirements. The Nevada Supreme Court applies a "substantial compliance" test to statutory requirements. See *Cirac v. Lander County*, 95 Nev. 723, 602 P.2d 1012 (1979) (allowing substantial compliance with statutory requirements for petitions) and *Nevadans for Nevada v. Beers*, 122 Nev. 930, 142 P.3d 339, 350-51 (2006) (requiring strict adherence for constitutional requirements for initiative petitions, but citing *Cirac* with regard to statutory requirements).³

Moreover, the Secretary of State's prescribed form only requires substantial compliance. Sections 295.020 and 293.182 of the Nevada Administrative Code only require that the affidavits be "in *substantially* the following form." NAC §§ 295.020; 293.182. The Petitions comply exactly with the form set forth in NAC 293.182 and with the form prescribed in the Guide that the Secretary of State published for 2008 ballot initiatives. The Revised Guide contained two different forms and was posted on the Secretary of State's web site after the Petitions were filed.

The Nevada Supreme Court has defined substantial compliance as compliance with essential matters necessary to ensure that the reasonable objective of the statute is met. *Redl v. Secretary of State*, 120 Nev. 75, 82 (2004). Contrary to the Challengers' assertions, a review of the Petitions and its Affidavits of Circulator shows a substantial compliance with the Nevada Revised Statutes.

The Challengers contend that the Petitions do not substantially comply because two of the four provisions from NRS 295.0575 are omitted. However, the new prescribed affidavit of

¹ NRS 295.015 requires the Secretary of State to "consult with the Legislative Counsel regarding the petition for initiative or referendum. The Legislative Counsel may provide technical suggestions regarding the petition for initiative or referendum." Since the Secretary of State has provided conflicting guidance on the requirement, the Secretary of State, in consultation with the Legislative Counsel, could have provided "technical suggestions" regarding the petition early in the process while there was still time to amend the form without disenfranchising more than 110,000 Nevada residents.

² Moreover, NAC § 293.182 conflicts with the Secretary of State's new form and still requires the form of affidavit that is on the Petitions.

³ Unlike Nevada, New York and Ohio require strict compliance with statutory requirements, and the New York and Ohio cases cited by the Challengers are not applicable.

circulator requires seven provisions, not four. The Petitions still contain an affidavit of circulator, which the circulator signed under oath to ensure against ballot fraud. Also, the Petitions' Affidavits of Circulator include five of the seven requirements prescribed by the Secretary of State in its new form. *See Revised Guide*, p. 23. As a result, and contrary to the Challengers' position, the Petitions do substantially comply with the statutory requirements of the affidavit of circulator.

The affidavits on the Petitions also substantially comply because they ensure that the reasonable objective of the affidavit of circulator requirement is met. As stated by the Challengers, the Legislature adopted the affidavit of circulator requirement to protect against ballot fraud, specifically, fraud related to the signature gathering process. The Petitions' Affidavits of Circulator do protect against ballot fraud as the circulator swears under oath that he or she personally circulated the petition, the petition signatures were signed in the circulator's presence, and each individual who signed was at the time of signing a registered voter in the county. These statements are more than sufficient to ensure the Petition is free from fraud, especially considering they are sworn to under oath with a penalty of perjury.

A review of the two omitted provisions only strengthens the argument that the Petitions substantially comply with the reasonable objective of the statutory requirement to protect against fraud. The first provision that the Challengers claim should have been included in the Affidavits of Circulator is the "number of signatures thereon." Excluding this provision from the affidavit of circulator, however, does not defeat the Petitions' protection against fraud. For example, Nevada law requires that the petition include the date on which each person signed the petition and the affidavits on the Petitions specifically set forth when the circulator signed the affidavit. NAC §§ 293.182; 295.020.

Additionally, Nevada law requires sequentially numbered spaces for the names of each person who signs the petition and that all pages are permanently attached in numerical order. NAC §§ 293.182; 295.020. Complying with these two requirements has the same effect as requiring the circulator to put in the affidavit how many signatures are attached. This is because a petition is limited to the number of signature boxes and pages it includes in the petition filed with the Secretary of State. Additionally, the person submitting petition documents to a county clerk is required to state the number of signatures on the documents. NRS § 295.056.

Instead of protecting against fraud, this provision appears to assist county clerks in the "raw count" they must provide the Secretary of State pursuant to NRS 293.1276. However, the county clerk must still determine the correct number of signatures attached to the petition before submitting that number to the Secretary of State's office and, later, the county clerks must verify the actual number of signatures. NRS § 295.250.

The next provision that Challengers claim should have been included in the Petitions' Affidavits of Circulator is that each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative is demanded. The legislative history appears to show the concern with signature gatherers obtaining signatures without having the actual text of the initiative available for review by the petition signer. Section 295.020 of the Nevada

Administrative Code states that if a petition consists of more than one document, each document must contain the full text of the initiative and “all the pages [of a petition] must be permanently attached together in numerical order.” Because the Petitions always have the full text of the initiative and are permanently attached pursuant to NAC 295.020, the signer’s opportunity to review the full text is self-evident. This provision simply requires the circulator swear under oath to the obvious – that the signers could read the text that is permanently attached to the Petitions.

The present matter is similar to the California case in which the California court held that “[T]echnical deficiencies in . . . initiative petitions will not invalidate the petitions if they are in substantial compliance with statutory and constitutional requirements. *Zaremborg et al. v. The Superior Court of Sacramento County*, 115 Cal.App.4th 111, 8 Cal.Rptr.3d 723, 730 (Cal. Ct. App. 2004). In *Zaremborg*, the California Appellate Court reviewed a referendum that did not comply with Section 9011 of the Election Code, which required a short title at the top of each page after the first page. *Id.* at 729-730. The referendum did not include the short title on every page as required by the statutory requirement. *Id.* The Court, viewing the document in favor of preserving the right of referendum, upheld the referendum because it was in substantial compliance with Section 9011 by accomplishing the intent of the technical requirement. *Id.*

Neither Challenger alleges fraud has occurred in obtaining the signatures on the Petitions. If some allegation of fraud is made, and that allegation cannot be resolved merely by referring to the voter registration rolls, the proponents of the Petitions could be required to provide affidavits or other evidence rebutting such allegations, at the risk of having the allegedly fraudulent signatures declared invalid. Throwing out the signatures of over 110,000 Nevadans over a technicality deprives each of those signers of their First Amendment rights, as will be more fully discussed below. The Petitions are constitutionally sound and substantially comply with all statutory requirements, and the Secretary of State and the County Clerks should therefore continue with the signature verification process. The objections to the Petitions are merely “form over substance” and should be rejected as such. Similar to the holding in *Zaremborg*, the Petitions should not be dismissed for a mere technical flaw.

It is a well established principle that the Nevada Constitution supersedes statutory law. *See, e.g., Foley v. Kennedy*, 110 Nev. 1295, 885 P.2d 583 (1994). The Constitution specifically states what must be included in an affidavit attached to each petition. Nev. Const. Art. 19, § 3. Although the Nevada Supreme Court found the affidavit provisions of Section 3 of Article 19 to be unenforceable because they violate the First Amendment of the United States Constitution,⁴ the affidavit requirements are still part of the Nevada Constitution, and as a matter of Nevada Constitutional law, the Legislature lacks authority to enact a statute that conflicts with express provisions of the Nevada Constitution.

Section 2 of Article 19 specifies that petitions proposing constitutional amendments must be filed with the Secretary of State “not less than 90 days before any regular general election at

⁴ *Heller v. Give Nevada A Raise, Inc.*, 120 Nev. 481, 96 P.3d 732 (2004).

which the question . . . may be voted upon.” Nev. Const., Art. 19, § 2. Section 3 of Article 19 then provides that:

The Legislature may authorize the Secretary of State and the other public officers to use generally accepted statistical procedures in conducting a preliminary verification of the number of signatures submitted in connection with a referendum petition or an initiative petition, and for this purpose to require petitions to be filed *no more than 65 days earlier than is otherwise required by this Article.*

Nev. Const., Art. 19, § 3 (2) (emphasis added).

In the very section containing the affidavit requirement, the Nevada Constitution grants the Legislature flexibility to modify the requirement specifying the time when a petition must be filed with the Secretary of State. If the drafters of Article 19 intended to grant the Legislature similar flexibility to vary the affidavit requirements, they would have said so expressly, as they did with the time of filing requirement.

This argument is further supported by the rule of construction that *expressio unius est exclusio alterius* or “that which is expressed makes that which is implied to cease.” See, e.g., *Flyge v. Flynn*, 63 Nev. 201, 244, 166 P.2d 539, 558 (1948); see also *Nevada Mining Ass’n v. Erdoes*, 117 Nev. 531, 538, 26 P.3d 753 (2001) (holding that rules of statutory construction apply to interpretation of constitutional provisions). Because the Constitution is specific as to the affidavit requirement, the Legislature cannot vary that requirement by statute. The Constitution may not be amended by statute. Modifying the affidavit requirement of Article 19 requires a constitutional amendment. Such an amendment has been proposed by one session of the Legislature⁵ and will be considered again in the 2009 Legislative Session. Nev. Const., Art. 16, § 1 (specifying the process for the Legislature to propose an amendment to the Nevada Constitution). Until SJR 1 is enacted again by the 2009 Legislature and approved by the People in the 2010 election, conflicting statutory requirements for affidavits on initiatives are invalid.

Moreover, NRS 295.0575 and the present affidavit of circulator requirement violate the First Amendment of the United States Constitution due to its severe burden on political speech. The U.S. Supreme Court has held that petition circulation is core political speech for which First Amendment protection is at its zenith. *Meyer v. Grant*, 486 U.S. 414, 108 S.Ct. 1886 (1988). Although states allowing ballot initiatives have some leeway to protect the integrity and reliability of the initiative process, the First Amendment requires a court to be vigilant in guarding against undue hindrances to political conversations and the exchange of ideas. *Id.* at 421. In *Meyer*, the Supreme Court found a Colorado statute banning the use of paid circulators to obtain signatures for initiative petitions was unconstitutional because it limited the number of voices who will convey the [initiative proponents’] message and consequently, cut down the size of the audience the proponents could reach. *Id.* at 423.

⁵ SJR 1 of the 74th Session of the Nevada Legislature (enrolled April 12, 2007).

The Supreme Court also found unconstitutional statutory requirements that petition circulators be registered voters, petition circulators wear identification badges bearing the circulator's name, and that the proponents of an initiative report names and addresses of all circulators and amounts paid to each circulator. *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 119 S.Ct. 636 (1999). The Supreme Court found that the restrictions significantly inhibited communication with voters about proposed political change and were not warranted by the state's interests of administrative efficiency, fraud detection, and informing voters alleged to justify the restrictions. *Id.* at 192. The Supreme Court further noted that its decision was informed through other less restrictive means Colorado employed to accomplish its regulation of the initiative process. *Id.*

The Nevada Supreme Court has also found that restrictions that burden the circulation of petitions for signatures are unconstitutional. *Heller v. Give Nevada A Raise, Inc.*, 120 Nev. 481, 96 P.3d 732 (2004). In *Heller*, the Nevada Supreme Court reviewed the constitutionality of the requirement that signers of the petition must sign an affidavit attesting to the requirements laid out in Article 19 § 3(1). *Id.* The Court, applying the holding in *Buckley*, noted that Article 19 § 3(1) severely burdened political speech and thus it must be narrowly tailored in order to be constitutional. *Id.* The Court held that the requirement was not narrowly tailored as there were other less restrictive alternatives to ensure the petition process' integrity than requiring an Article 19 § 3(1) affidavit. *Id.* at 738.

In 2007, the Legislature adopted Section 295.0575, which requires that the affidavit of circulator include a statement under oath that: (1) he personally circulated the document; (2) stating the number of signatures thereon; (3) that all signatures were affixed in his presence; and (4) that each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded. Further, by regulation, the Secretary of State requires additional provisions in the affidavit including: (a) the name of the circulator; (b) the address of the circulator; (c) affirmation that the circulator is 18 years of age or older; and (d) that he believes each person who signed was at the time of signing a registered voter in the county of his residence. All these statements must be sworn to by the circulator under oath with penalty of perjury.

Requiring a petition circulator to sign an affidavit that subjects him to a penalty of perjury is a severe burden on political speech. A petition circulator may receive thousands of signatures. For example, in Clark County more than 40,000 signatures must be collected in order to qualify an initiative petition for the ballot. Petition circulators are thus required to approach thousands of people in order to successfully qualify an initiative for the ballot. However, to make this process even harder, the petition circulator must also swear under oath that he believes every person who signed the petition was a registered voter in the county of his residence and that each signer had an opportunity before signing to read the full text of the act on which the initiative is demanded.

In a county like Clark County, where there is a vast number of tourists and a considerable number of new residents who move to the county on a daily basis, it is a severe burden to require a petition circulator to verify that he believes that each signer is a registered voter in the county

of his residence. A petition circulator cannot assume that just because a person signs in Clark County he or she is a registered voter or a resident of a certain county. Therefore, the petition circulator, in order to protect against a possible perjury charge, must take a proactive approach in verifying more information of the petition signer than constitutionally or statutorily required.

Nevada law already requires an alternative means that is less restrictive in verifying if the signer is a registered voter and resident of a county – the signature verification process county clerks conduct pursuant to NRS 293.1277. The clerks are required by law to verify the signatures on the petitions are from registered voters in that county. This mechanism accomplishes the same result in a less restrictive manner as a petition circulator swearing under oath that he believes all signers are registered voters and residents of that county. As the U.S. Supreme Court held in *Buckley*, the fact that the state has other means to accomplish its regulatory objectives means that the more restrictive requirements on political speech are unconstitutional. *Buckley*, 532 U.S. at 192.

In addition, as of 2007, a petition circulator also must verify that the signer had an opportunity to review the entire text of the act on which the initiative is demanded. Besides being vague as to what constitutes an “opportunity,” requiring a petition circulator to swear under oath that “each” signer had an opportunity severely burdens political speech. NRS 295.055 requires the Secretary of State to specify “the manner of fastening together several sheets circulated by one person to constitute a single document.” NRS 295.055 (1)(b). The Secretary of State requires that each document must “contain the full text of the proposed measure . . .” and all pages of a document “must be permanently attached together in numerical order.” NAC §§ 295.020 (2) and (3)(b); 293.182. The Petitions comply with these requirements.

Since the full text must be permanently attached to each document on which signatures are collected, it is self-evident that the signer had an opportunity to review the full text of the measure and requiring petition circulators to swear under oath that each signer was given the opportunity to review the text is an unnecessary burden. The petition circulator is faced with thousands of people, some who will want to review the entire text of the initiative and others who might just sign based on the description of effect or what they have read in the newspaper or heard from friends about the petition. Further, the petition circulator may pass the petition to a large group of people at one time, but it could be argued that not everyone had the “opportunity” to review the entire text. This provision in the affidavit requires the petition circulator to make a statement under oath that he cannot actually verify or control and further burdens constitutionally protected political speech.

As discussed above, there is already an alternative requirement in Nevada law that is less restrictive to political speech than subjecting a petition circulator to possible perjury charges. That requirement is that each petition must include the full text of the measure on each document and all pages must be permanently attached. As a result, by Nevada law, the petition signer already has the opportunity to review the entire text, and requiring a petition circulator to swear under oath that every signer had the opportunity to read it is just creating another unnecessary and restrictive burden on the First Amendment right of free speech.

Further, the Challengers are improperly requesting that the Secretary of State determine the legal sufficiency of the Petitions and invalidate the more than 110,000 signatures attached to each Petition. Chapters 293 and 295 of the Nevada Revised Statutes provide for the Secretary of State and County Clerks to verify whether there are a sufficient number of valid signatures to qualify a petition for the ballot. *See, e.g., Nev. Rev. Stat. §§ 293.1276-.1277; 295.250-.260.* The Nevada Revised Statutes, however, do not grant the Secretary of State the authority to determine the legal sufficiency of an initiative petition. Instead, NRS 295.061(2) specifically provides that “[t]he legal sufficiency of a petition for initiative . . . may be challenged by filing a complaint in district court not later than 7 days, Saturdays, Sundays and holidays excluded, after the petition is certified as sufficient by the Secretary of State” Nor does NRS Chapter 295 provide a remedy for technical violations of the chapter. As a result, the Challengers’ requests are improper. Also the Secretary of State has not yet certified the Petitions, thereby making Challengers’ allegations premature.

*Lundberg v. Koontz*⁶ and *Nevadans for Nevada v. Beers*,⁷ cited by the Challengers, do not support the action that they are asking the Secretary of State and County Clerks to take in this case. *Lundberg* involved constitutional and not statutory requirements for initiative petitions. The constitutional requirement applied in *Lundberg* was subsequently held to be unenforceable in *Give Nevada a Raise*, 120 Nev. 481, and *Beers* distinguished between strict compliance for constitutional requirements and substantial compliance for statutory requirements. 142 P.3d at 350 (citing *Cirac v. Lander County*, 95 Nev. 723, 602 P.2d 1012 (1979)). *Beers* also involved differences in the filed and circulated versions of the petition that the court found were “material and substantial” resulting in a petition that was not “an accurate reflection of the committee’s vocalized intent” and therefore, it was “misleading.” 142 P.3d at 346. In this case, there is no allegation that signers of the Petitions were in any way misled.

Similarly, the Oregon and Ohio cases cited by the Challengers are distinguishable from this case. *Kucera v. Bradbury*, 97 P.3d 1191 (Or. 2004), involved nominating petitions and not initiative petitions. Some of the defects in the affidavits included no signature of the circulator, only initials of the circulator, use of a signature stamp, circulators signatures were crossed out and new signatures substituted, and photocopied or carbon copied signatures. 97 P.3d at 1199. These defects suggest potential fraud and are clearly not present in this case. In *Rust v. Lucas Cty. Bd. Of Elections*, 841 N.E. 2d, 766, 768 (Ohio 2005), the petitioner’s affidavits understated the number of signatures collected on numerous documents, indicating possible fraud.

Moreover, both the Oregon and Ohio statutes and courts authorized the Secretary of State to apply a strict compliance standard for statutory requirements which, as noted above, is no the law in Nevada. In *Kucera*, the Oregon Secretary of State set forth prescribed forms in a manual. In light of all the deficiencies, the court upheld the Secretary’s application of a strict compliance standard for the requirements of the manual. Where, as in this case, the affidavit need only be in “substantially the following form,” Nevada law requires only substantial compliance with

⁶ 82 Nev. 360, 418 P.2d 808 (1966).

⁷ 122 Nev. 930, 142 P.2d 339 (2006).

statutory requirements, and there are two different forms set forth, use of either form should be upheld.

Finally, the Challengers' claims are barred by the doctrine of *res judicata*. Each of the Challengers filed petitions in the First Judicial District Court challenging the Petitions after they were filed with the Secretary of State. The Petitions filed with the Secretary of State contained the affidavits the Challengers are now contesting. At no time during the previous litigation did they claim that the affidavits were deficient. Generally, the doctrine of *res judicata* precludes parties or those in privity with them from relitigating a cause of action or an issue which has been finally determined by a court of competent jurisdiction. *Horvath v. Gladstone*, 97 Nev. 594, 597, 637 P.2d 531, 533 (1981); *Gilbert v. Warren*, 95 Nev. 296, 594 P.2d 696 (1979). The doctrine is intended to prevent multiple litigation causing vexation and expense to the parties and wasted judicial resources by precluding parties from relitigating *issues they could have raised in a prior action concerning the same controversy*. *University of Nevada v. Tarkanian*, 110 Nev. 581, 598 (1994) citing *Hulsey v. Koehler*, 267 Cal. Rptr. 523, 526 (Ct. App. 1990).

Res judicata is also known as claim preclusion. Claim preclusion, or merger and bar, is triggered when a judgment is entered. A valid and final judgment on a claim precludes a second action on that claim or any part of it. See *Gilbert v. Warren*, 95 Nev. 296, 594 P.2d 696 (1979). The preclusive effect is generally as to a subsequent action on the same claim or part thereof, not as to subsequent proceedings in the same litigation. *University of Nevada v. Tarkanian*, 110 Nev. at 599 (1994) citing *Office Services Corp. of America v. CAS Systems, Inc.*, 666 P.2d 1373 (Or. Ct. App.), rev. denied, 670 P.2d 1036 (Or. 1983); Charles A. Wright, Law of Federal Courts § 100A (4th ed. § 100A (4th ed. 1983). The claim of a prevailing plaintiff is merged into the judgment. If the defendant prevails, the plaintiff is thereafter barred from subsequent suits on the same claim. See Restatement (Second) of Judgments § 24 (1982). The modern view is that claim preclusion embraces all grounds of recovery that were asserted in a suit, *as well as those that could have been asserted*, and thus has a broader reach than collateral estoppel. *University of Nevada v. Tarkanian*, 110 Nev. at 598 (1994), citing *Batterman v. Wells Fargo Ag. Credit Corp.*, 802 P.2d 1112 (Colo. Ct. App. 1990). See also *Matter of Herbert M. Dowsett Trust*, 791 P.2d 398 (Haw. Ct. App. 1990); *Madsen v. Borthick*, 769 P.2d 245, 247 (Utah 1988).

In this case, the Challengers could have asserted that the affidavits were deficient in the prior litigation. They did not raise their challenge then and they cannot assert that they are deficient now. *University of Nevada v. Tarkanian*, 110 Nev. at 598. Rather, they are using the hard earned dollars of taxpayers and their members in a cynical attempt to get a "second bite" at disenfranchising more than 110,000 of Nevada's citizens

If recent reports are accurate, one of the petitions recently circulated in Nevada contained the form of affidavit the Challengers claim is required, but nevertheless contained a "hodge podge" of original signatures and photocopied signatures. See <http://blogs.rgj.com/inside-nevada-politics/2008/05/even-more-problems-with-angles-petition.html>. Where there is evidence of fraud, the correct form of affidavit should not save a petition. Where there is no such evidence, technicalities with regard to the form of the affidavit are not fatal. To hold

Ross Miller
May 22, 2008
Page 11

HALE LANE
ATTORNEYS AT LAW

otherwise would truly elevate form over substance and trample the fundamental rights of the people to avail themselves of the initiative process.

If you have any questions, comments or concerns, please do not hesitate to contact me at my office. Thank you for your consideration of this matter.

Sincerely,



Scott Scherer
Timothy Clausen

SS/TMC:taw

State of Nevada

**INITIATIVE & REFERENDUM
GUIDE**



2008

Provided by

**Ross Miller
Secretary of State**

NEVADA

2008 INITIATIVE AND REFERENDUM PROCEDURES

TABLE OF CONTENTS

Preface.....	iii
Initiative & Referendum General Information	1
Initiative Petition to Propose or Amend a State Statute.....	2-3
Initiative Petition to Amend the Nevada Constitution.....	4-5
Referendum Petition to Approve or Disapprove a Current State Law	6-7
Statewide Petition Verification Process.....	8
Statewide Petition Determination of Sufficiency	9
2008 General Election Voter Turnout / Number of Signatures Required by County.....	10
County & Municipal Initiative & Referendum.....	11-12
Filing and Appeal and Court Challenges	13
Questions on the Ballot.....	14-16
Ballot Advocacy Groups Reporting Requirements.....	17
Ballot Question Advocacy Groups Contribution and Expenditure Reporting Dates	18
Petition Notes.....	19-20
Appendix: Sample Initiative Petition Sample Referendum Petition Constitution of the State of Nevada, Article 19 Nevada Revised Statutes (NRS) 293.12756 through 293.12795 Nevada Revised Statutes (NRS) Chapter 295 Nevada Administrative Code (NAC) 295.020 through 295.040	

PREFACE

The Secretary of State's office has prepared this brief summary of the statewide, county, and municipal initiative and referendum procedures as printed in Article 19 of the Nevada Constitution (NV Const. Art. 19), Chapter 295 of the NRS, and other pertinent sections of Title 24 Election Laws of NRS and NAC. The purpose of this booklet is to provide an understanding of the guidelines and requirements necessary for preparing and qualifying initiatives and referenda for the ballot. **It is important to note that this guide is for general information only and does not have the force and effect of Nevada law, regulation, or rule.** Interested citizens should obtain the most recent version of the Nevada Revised Statutes, as Nevada's Election Laws are amended each legislative session. Interested parties should also be aware that election issues are periodically addressed by the Attorney General, or by State or Federal courts. Due to the general scope of this guide, some of these issues may not be addressed here. Interested parties should review Attorney General Opinions and court decisions, and should contact the Secretary of State or a Nevada attorney with any specific questions.

QUESTIONS?

Contact

ROSS MILLER

Secretary of State

Elections Division

101 North Carson Street, Suite 3

Carson City, Nevada 89701-3714

Telephone (775) 684-5705 / Fax (775) 684-5718

E-mail address: nvelect@govmail.state.nv.us

Website: www.secretaryofstate.biz

INITIATIVE & REFERENDUM

GENERAL INFORMATION

What are Initiatives & Referendums?

Initiatives are a device by which voters enact state or local laws. Referendums are a device by which voters approve or disapprove of existing state or local laws. They are both methods of involving voters directly in the legislative process of government.

Specifically, an *initiative* petition can do one of the following:

1. Propose a new State Statute; or
2. Amend an existing State Statute; or
3. Amend the Nevada Constitution; or
4. Propose a new County or Municipal Ordinance; or
5. Amend an existing County or Municipal Ordinance

A *referendum* petition can only approve or disapprove a statute, resolution, or ordinance that was enacted by the State Legislature, Board of County Commissioners, or City Council.

Does every petition use the same process and timeline to qualify?

Whatever the petition may be proposing, amending, approving or disapproving, there are certain processes and timelines that must be complied with in order for the petition to succeed. The following pages contain the procedures and essential dates required for each of the above petitions. The petition procedures at the county and city level will begin on page 11, following the statewide petition processes. For your convenience, each section is marked to identify which pages are pertinent to each government level.

STATEWIDE INITIATIVE PETITION
PROPOSE A NEW STATE STATUTE OR
AMEND AN EXISTING STATE STATUTE

Prior to circulating a petition for signatures, a copy of the petition, including a 200 word or less description of the effect of the petition, must be filed with the Secretary of State. See "Important Dates" below for filing dates. (NV Const. Art. 19, Sec. 2(3); NRS 295.015). Each petition may embrace only a single subject and matters necessarily connected therewith and pertaining thereto. (NRS 295.009).

To qualify for inclusion on the ballot, a petition must be signed by a minimum number of registered voters. The number of valid signatures required is determined by multiplying the amount that equals 10 percent of the voters who voted in the entire State at the last preceding general election by the population percentage for that county. Total population of the State means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141 (c). Population percentage for that county means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141 (c), by the total population of the State. (NV Const. Art. 19, Sec. 2(2); SB 549 of the 2007 Legislative Session). (See chart on page 10). The last preceding general election for all petitions submitted in 2008 is considered the 2006 general election. (See Court Order of 3/2/05 in case # CV-S-05-0041(JCM), District of Nevada). Therefore, 58,628 valid signatures are required to qualify petitions submitted in 2008.

*Ab.
of signatures
required.*

Only registered voters of the county where the petition is circulated may sign the petition. (NV Const. Art. 19, Sec. 2(2)). Also, petition circulators must sign the Affidavit of Circulator. (NAC 293.182; NAC 295.020). A copy of the Affidavit of Circulator is included in the appendix.

After a petition has been circulated for signatures, it must be submitted to the County Clerk/Registrar in the county in which the petition was circulated. All documents must be submitted on the same day for signature verification (please see page 8 for the verification process). The County Clerk/Registrar shall issue a receipt to any person who submits a petition stating the number of documents and pages and the person's statement of the number of signatures contained on the petition. Once a petition is submitted for signature verification, it can no longer be circulated for signatures. A person who signed a petition may request to have his name removed any time before the petition is filed for signature verification by submitting his request in writing to the County Clerk/Registrar. (NV Const. Art. 19, Sec. 2 (3); NRS 293.1276; NRS 293.1277(4); 293.12758; 295.055(3); 295.056(1); NAC 295.020).

If the petition is sufficient, (please see page 9 for determination of sufficiency procedures) the Secretary of State shall transmit the petition to the 2009 legislative session as soon as it convenes. The petition shall be enacted or rejected by the legislature without change within 40 days. If the petition is enacted by the legislature and approved by the Governor, it

shall become law. If the legislature does not act upon or rejects the petition within 40 days, the Secretary of State shall submit the petition to a vote at the next general election. If the Legislature rejects a petition and proposes a different measure on the same subject, which the Governor approves, the measure proposed by the Legislature and approved by the Governor must be listed on the ballot along with the petition. If both the petition and the measure are approved by the voters, whichever receives the highest number of affirmative votes becomes law. NRS 293.267(5); NRS 295.125; NV Const. Art. 19, Sec. 2(3)).

IMPORTANT DATES:

January 1, 2008: First date Secretary of State will accept a copy of a statutory initiative petition prior to circulation for signatures. (NV Const. Art. 19, Sec. 2(3)).

November 11, 2008: Last date for petitioners to submit signatures in support of a statutory initiative petition to the County Clerk/Registrar for verification of signatures. (NRS 295.056(2)).

**STATEWIDE INITIATIVE PETITION
AMEND THE NEVADA CONSTITUTION**

Prior to circulating a petition for signatures, a copy of the petition, including a 200 word or less description of the effect of the petition, must be filed with the Secretary of State. See "Important Dates" below for filing dates. (NV Const. Art. 19, Sec. 2(4) and NRS 295.015; 295.009). Each petition may embrace only a single subject and matters necessarily connected therewith and pertaining thereto. (NRS 295.009).

To qualify for inclusion on the ballot, a petition must be signed by a minimum number of registered voters. The number of valid signatures required is determined by multiplying the amount that equals 10 percent of the voters who voted in the entire State at the last preceding general election by the population percentage for that county. Total population of the State means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141 (c). Population percentage for that county means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141 (c), by the total population of the State. (NV Const. Art. 19, Sec. 2(2); SB 549 of the 2007 Legislative Session) (See chart on page 10). The last preceding general election for all petitions submitted in 2008 is considered the 2006 general election. (See Court Order of 3/2/05 in case # CV-S-05-0041(JCM), District of Nevada). Therefore, 58,628 valid signatures are required to qualify petitions submitted in 2008.

Only registered voters of the county where the petition is circulated may sign the petition. (NV Const. Art. 19, Sec. 2(2)). Also, petition circulators must sign the Affidavit of Circulator. (NAC 293.182; NAC 295.020). A copy of the Affidavit of Circulator is included in the appendix.

After a petition has been circulated for signatures, it must be submitted to the County Clerk/Registrar in the county in which the petition was circulated. All documents must be submitted on the same day for signature verification (please see page 8 for the verification process). The County Clerk/Registrar shall issue a receipt to any person who submits a petition stating the number of documents and pages and the person's statement of the number of signatures contained on the petition. Once a petition is submitted for signature verification, it can no longer be circulated for signatures. A person who signed a petition may request to have his name removed any time before the petition is filed for signature verification by submitting his request in writing to the County Clerk/Registrar. (NV Const. Art. 19, Sec. 2 (3); NRS 293.1277(4); 293.12758; 295.055(3); 295.056(1); NAC 295.020(4)).

If the petition is sufficient, the proposed amendment shall be placed on the ballot at the 2008 General Election for approval or disapproval by voters of the entire state. (Please see page

9 for the determination of sufficiency procedures). If the voters approve the amendment, the Secretary of State shall resubmit the question of approval or disapproval to a vote of the people at the 2010 General Election. The language, description, arguments and question number must be the same on both General Election ballots. If the question passes a second time, it becomes part of the Nevada Constitution upon certification of election results. If the question fails to pass a second time, no further action shall be taken. (NV Const. Art. 19, Sec. 2(4)).

IMPORTANT DATES:

September 1, 2007: First day the Secretary of State will accept a copy of a constitutional initiative petition for filing prior to circulation for signatures.
(NV Const. Art. 19, Sec. 2(4)).

May 20, 2008: Last day for petitioners to submit a constitutional initiative petition to the County Clerk/Registrar for verification of signatures.
(NRS 295.056(3)).

STATEWIDE REFERENDUM PETITION
APPROVE OR DISAPPROVE A CURRENT STATE LAW

Prior to circulating a petition for signatures, a copy of the petition, including a 200 word or less description of the effect of the petition, must be filed with the Secretary of State. See "Important Dates" below for filing dates. (NV Const. Art. 19, Sec. 1(1); NRS 295.045(1); S.B. 224(20)(2005 Session)). Each petition may embrace only a single subject and matters necessarily connected therewith and pertaining thereto. (295.009).

To qualify for inclusion on the ballot, a petition must be signed by a minimum number of registered voters. The number of valid signatures required is determined by multiplying the amount that equals 10 percent of the voters who voted in the entire State at the last preceding general election by the population percentage for that county. Total population of the State means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141 (c). Population percentage for that county means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141 (c), by the total population of the State. The number of valid signatures required on a petition is equal to 10% or more of the total votes cast at the last preceding general election. (NV Const. Art. 19, Sec. 2(2); SB 549 of the 2007 Legislative Session) (See chart on page 10). The last preceding general election for all petitions submitted in 2008 is considered the 2006 general election. (See Court Order of 3/2/05 in case # CV-S-05-0041(JCM), District of Nevada). Therefore, 58,628 valid signatures are required to qualify petitions submitted in 2008.

Only registered voters of the county where the petition is circulated may sign the petition. (NV Const. Art. 19, Sec. 2(2)). Also, petition circulators must sign the Affidavit of Circulator. (NAC 293.182; NAC 295.020). A copy of the Affidavit of Circulator is included in the appendix.

After a petition has been circulated for signatures, it must be submitted to the County Clerk/Registrar in the county in which the petition was circulated. All documents must be submitted on the same day for signature verification (please see page 8 for the verification process). The County Clerk/Registrar shall issue a receipt to any person who submits a petition stating the number of documents and pages and the person's statement of the number of signatures contained on the petition. Once a petition is submitted for signature verification, it can no longer be circulated for signatures. A person who signed a petition may request to have his name removed any time before the petition is filed for signature verification by submitting his request in writing to the County Clerk/Registrar. (NV Const. Art. 19, Sec. 1(2); NRS 293.1277(4); 293.12758; 295.055(3); 295.056(1)); NAC 295.020).

If the petition is sufficient, it will be submitted to a vote of the people at the 2006 General Election. If the state law at issue is approved, it remains standing as the law of the state. If the state law at issue is disapproved, it becomes void and of no effect. (Please see page 9 for the determination of sufficiency procedures). (NV Const. Art. 19, Sec. 1).

IMPORTANT DATES:

August 1, 2007: First day the Secretary of State will accept a copy of a referendum petition for filing prior to circulation for signatures. (NV Const., Art. 19, Sec. 1(1)).

May 20, 2008: Last day petitioners may submit a referendum petition to County Clerk/Registrars for verification of signatures. (NRS 295.056(4)).
For All Statewide Initiative & Referendum Petitions

VERIFICATION PROCESS

Step 1:

All documents of a petition must be submitted to the appropriate County Clerk/Registrar at the same time. The County Clerk/Registrar count the total number of signatures on the petition and forward that number to the Secretary of State. This is the "raw count." (NRS 295.056(5); 293.1276).

Time frame: The County Clerk/Registrar must complete the raw count within 4 days after submission of the petition, excluding Saturdays, Sundays and holidays. (NRS 293.1276(1)).

Step 2:

Based on the raw count information received from the County Clerk/Registrar, the Secretary of State determines whether the number of signatures is 100% of the number needed. If the raw count indicates that the petition contains less than 100% of the signatures required, the Secretary of State notifies the persons who submitted the petition and the County Clerk/Registrar that no further action is to be taken on the petition. If the raw count indicates that the petition contains 100% or more of the number of signatures required, the Secretary of State notifies the County Clerk/Registrar. (NRS 293.1276; 293.1277(1)).

Time frame: Immediately after receiving the raw count from all counties, the Secretary of State determines if the petition contains the number of signatures needed to declare the petition sufficient. (NRS 293.1276(2); 293.1277(1)).

Step 3:

If the Secretary of State notifies the County Clerk/Registrar that the raw count contains the number of signatures required, the County Clerk/Registrar shall verify the signatures. The Clerk/Registrar shall allow the person who submitted the petition or a member of the petitioner's committee to witness the signature verification. If more than 500 signatures have been submitted, the County Clerk/Registrar shall randomly sample 500 or 5% of the signatures, whichever is greater. Upon completing the examination, each County Clerk/Registrar shall transmit the documents with a certificate showing the results of his examination to the Secretary of State. The County Clerk/Registrar shall also notify the Secretary of State of requests to remove a name from the petition. (NRS 293.1277(2-5); NAC 293.183).

Time frame: Signature verification must be completed within 9 days after notification by the Secretary of State, excluding Saturdays, Sundays and holidays. (NRS 293.1277(1)).

FOR ALL STATEWIDE INITIATIVE & REFERENDUM PETITIONS
DETERMINATION OF SUFFICIENCY

The Secretary of State determines whether or not the petition is sufficient based on the County Clerk/Registrar' certified results of the signature verification.

1. If the Secretary of State finds that the number of valid signatures is less than 100% of the number of registered voters required to declare the petition sufficient (or less than 90% if the verification was conducted pursuant to a random sampling):

Result: The petition fails to qualify, and the Secretary of State shall immediately notify the petitioners and the County Clerk/Registrar. No further action is taken. (NRS 293.1278(1)).

2. If the Secretary of State finds that the number of valid signatures, not including those who requested their signature to be removed before verification, is equal to or greater than 100% of the number of registered voters required to declare the petition sufficient:

Result: The petition is deemed qualified as of the date the Secretary of State receives the final certificates of results. The Secretary of State immediately notifies the County Clerk/Registrar and the petitioners. (NRS 293.1278(2)); 295.055(3)).

3. If the signature verification was conducted pursuant to a random sampling of the greater of 500 signatures or 5% of the total contained on the petition, and the Secretary of State finds the number of valid signatures, not including those who requested their signature to be removed before verification, is 90% or greater, but less than 100% of the required number of registered voters needed to declare the petition sufficient:

Result: The Secretary of State directs the County Clerk/Registrar to reexamine the signatures for verification. The County Clerk/Registrar will verify each signature on the petition to determine whether 100% or more of the required number of voters signed the petition.

The County Clerk/Registrar must complete this process within 12 working days after receiving the order of the Secretary of State.

After completing the reexamination of signatures for verification, the County Clerk/Registrar will forward an amended certificate of results to the Secretary of State. (NRS 293.1279; 293.1278(2); 295.055(3)).

2008 GENERAL ELECTION VOTER TURNOUT

(For use in statewide petitions and county referendum petitions)

TOTAL VOTER TURNOUT 2006	10% OF TOTAL VOTER TURNOUT	TOTAL COUNTY POPULATION 2000 CENSUS	POPULATION % BY COUNTY (DIVIDE COUNTY CENSUS NUMBER BY CENSUS NUMBER OF ENTIRE STATE—1,998,257)	NUMBER OF SIGNATURES REQUIRED BY COUNTY (MULTIPLY 10% OF VOTERS WHO VOTED IN ENTIRE STATE IN LAST GENERAL ELECTION BY POPULATION % OF COUNTY)
586,274	58,627.4	52,457	.0262513	1,524.3124
Carson	58,627.4	52,457	.0262513	1,524.3124
58,627.4	58,627.4	23,982	.0120014	703.61087
Churchill	58,627.4	23,982	.0120014	703.61087
58,627.4	58,627.4	1,375,765	.6884825	40,363.938
Clark	58,627.4	1,375,765	.6884825	40,363.938
58,627.4	58,627.4	41,259	.0206474	1,210.4951
Douglas	58,627.4	41,259	.0206474	1,210.4951
58,627.4	58,627.4	45,291	.0226652	1,328.8017
Elko	58,627.4	45,291	.0226652	1,328.8017
58,627.4	58,627.4	971	.0004859	28.487052
Esmeralda	58,627.4	971	.0004859	28.487052
58,627.4	58,627.4	1,651	.0008262	48.437957
Eureka	58,627.4	1,651	.0008262	48.437957
58,627.4	58,627.4	16,106	.00806	472.53684
Humboldt	58,627.4	16,106	.00806	472.53684
58,627.4	58,627.4	5,794	.0028995	169.99014
Lander	58,627.4	5,794	.0028995	169.99014
58,627.4	58,627.4	4,165	.0020843	122.19708
Lincoln	58,627.4	4,165	.0020843	122.19708
58,627.4	58,627.4	34,501	.0172655	1,012.2313
Lyon	58,627.4	34,501	.0172655	1,012.2313
58,627.4	58,627.4	5,071	.0025377	148.77875
Mineral	58,627.4	5,071	.0025377	148.77875
58,627.4	58,627.4	32,485	.0162566	953.08219
Nye	58,627.4	32,485	.0162566	953.08219
58,627.4	58,627.4	6,691	.0033494	196.36661
Pershing	58,627.4	6,691	.0033494	196.36661
58,627.4	58,627.4	3,399	.0017009	99.719344
Storey	58,627.4	3,399	.0017009	99.719344
58,627.4	58,627.4	339,486	.169891	9,960.2676
Washoe	58,627.4	339,486	.169891	9,960.2676
58,627.4	58,627.4	9,181	.0045945	269.36358
White Pine	58,627.4	9,181	.0045945	269.36358
Totals	58,628	1,998,257	.9999993	58,628 (rounding up any fraction of a percent)

COUNTY & MUNICIPAL INITIATIVE & REFERENDUM

County and municipal initiative and referendum procedures are similar to those used by the state; however, there are some differences. The information provided below is taken from the Nevada Constitution, Title 24 of the NRS, and the NAC Election Regulations. Please contact the county or city in which the petition will be submitted to receive additional provisions (if any) on the petition process for that county or city. Please note that this information is for both county and city. County petition documents must be filed with the respective County Clerk/Registrar, and municipal petition documents must be filed with the respective City Clerk.

SUBMITTING A PETITION

Any five registered voters of the county or city may file with the Clerk an affidavit stating that they will constitute the petitioner's committee, be responsible for circulating the petition and filing it in the proper form. The affidavit must also contain the full text of the proposed initiative ordinance or cite the ordinance sought to be reconsidered, along with a 200 word or less description of the effect of the petition. (NRS 295.095(1); 295.205; S.B. 224(20) (2005 Session)). Each petition can embrace only a single subject and matters necessarily connected therewith and pertaining thereto. (S.B. 224(20)(2005 Session)).

Initiative petitions must be signed by a number of registered voters that equals or exceeds 15 percent of the voter turnout at the last general county election or the last city election. (NRS 295.095(2); 295.205(2)).

Referendum petitions must be signed by a number of registered voters that equals or exceeds 10 percent of the voter turnout at the last general county election or the last city election. (NRS 295.095(3); NRS 295.205(3)).

Please contact the appropriate county or city clerk to obtain voter turnout at prior county or city elections.

The contents of the petition must comply with the requirements of NRS 295.095 (county), NRS 295.205 (city), and NAC 295.020 (both county and city). The petition format is displayed on the sample petition provided in the Appendix. Please be advised of the additional requirements for county and city that are not provided in the appendix for the Affidavit of Circulator. Affidavits must also state the following: (1) the number of signatures contained in the document, and (2) an affirmation that each signer had an opportunity before signing to read the full text of the measure. (NRS 295.095(6); 295.205(6)).

Initiative and referendum petition documents must be submitted to the respective clerks for verification no later than 180 days after the date the affidavit was filed or 130 days before the election, whichever is earlier. A receipt containing the number of documents, pages, and declared signatures received shall be issued to the person who submitted the documents. (NRS 295.095(4),(7); NRS 295.205(4),(7)).

COUNTY & MUNICIPAL INITIATIVE & REFERENDUM

PETITION SIGNATURE VERIFICATION PROCESS:

Upon receipt of the petition, the County or City Clerk shall count the number of signatures submitted. This number is the "raw count." If the "raw count" is less than 100% of the number of signatures required then the petition is deemed insufficient. If the "raw count" indicates that the petition contains 100% or more of the total number of signatures required then the Clerk shall begin signature verification. (NRS 295.250).

If the total number of signatures from the "raw count" is 500 or less, then the Clerk must examine and verify every signature on the petition. The Clerk shall allow the person who submitted the petition or a member of the petitioner's committee to witness the signature verification. (NRS 295.260(1); NRS 295.290; NAC 293.183).

If the total number of signatures from the "raw count" is more than 500, then the Clerk shall randomly sample 500 or 5% of the signatures, whichever is greater. If the examination of the random sample shows that the number of valid signatures is less than 90% of the number of signatures of registered voters needed, it shall be deemed insufficient. If the examination of the random sample shows that the number of valid signatures is 90% or more but less than 100% of the number of valid signatures needed, then the Clerk shall continue to verify the signatures. The Clerk shall continue to verify the signatures until he has examined every signature or has determined that 100% of the number of signatures needed is valid. (NRS 295.260(2 & 5)).

The Clerk has 20 days from receipt of the petition to conduct the signature verification process. NRS 295.105(1); NRS 295.210(1)).

REVIEW OF PETITION BY BOARD OR COUNCIL

If the petition is deemed sufficient, the board or council shall promptly consider the ordinance in the manner provided by law. If the board or council fails to adopt the proposed ordinance without change in substance or fails to repeal the referred ordinance within 30 days after the date the petition was determined sufficient, it shall submit the proposed or referred ordinance to the registered voters in the form of a ballot question at the next general election (if a municipal initiative, the question will be voted upon at either the next general city election or general election). (NRS 295.115; 295.215; S.B. 224 (29) (2005 Session)).

If the petition has been certified insufficient, the petitioner's committee may, within 2 days of receipt of a copy of the certificate, file a request that it be reviewed by the board/council. The board/council will review the certificate at their next meeting and will approve or disapprove it. The determination of the board will be the final determination of the sufficiency of the petition. However, the final determination is subject to judicial review. (NRS 295.105(3),(4); 295.210(3),(4)).

FILING AN APPEAL

STATEWIDE INITIATIVE & REFERENDUM PETITIONS

If a statewide referendum or initiative petition fails for lack of signatures, the person who submitted the petition may challenge the signature verification by filing an appeal with the Secretary of State within 5 working days after receipt from the Secretary of State of the notification of determination of sufficiency of the petition. The appeal must include:

- a. The reasons for appeal; and
- b. A statement of the number of signatures, if any, that the County Clerk/Registrar determined were invalid.

(NRS 293.12793). If the appeal is based on the results of the signature verification, the Secretary of State shall:

- a. If the Secretary of State finds for the appellant, order the County Clerk/Registrar to recertify the petition to include all contested signatures that the Secretary of State determines are valid.
- b. If the Secretary of State finds against the appellant, notify that person and the County Clerk/Registrar that the petition remains insufficient.

If the Secretary of State is unable to make a decision on the appeal based upon the documents submitted, he may order the County Clerk/Registrar to reverify the signatures. The decision of the Secretary of State is a final decision for the purposes of judicial review. The decision of the Secretary of State may be appealed, but only in the First Judicial District Court in Carson City, Nevada. (NRS 293.12795).

COURT CHALLENGES

STATEWIDE INITIATIVE & REFERENDUM PETITIONS

The description of the effect of a petition may be challenged by filing a complaint in the First Judicial District Court within 30 business days after a copy of the petition is initially filed with the Secretary of State. (S.B. 224(25) (2005 Session)). Other challenges to the legal sufficiency of a petition may be brought by filing a complaint in a district court within 5 business days after the petition is filed with the Secretary of State. (NRS 295.061). The filing officer (Secretary of State, County Clerk/Registrar, or City Clerk) may be named in an "official capacity," while the real party in interest is the person or group who sponsored the petition drive.

QUESTIONS ON THE BALLOT

STATEWIDE, COUNTY & MUNICIPAL PETITIONS

Once an initiative or referendum petition has qualified for the ballot, it becomes a ballot question. Depending on where the question's proposal originated, the language of each ballot question is drafted by either the Secretary of State, Legislative Counsel Bureau, or by appointed committees. Statewide ballot questions may only appear in the General Election pursuant to the Nevada Constitution, Article 19, sections 1 and 2.

STATEWIDE MEASURES PROPOSED BY PETITION

The Secretary of State must, upon consultation with the Attorney General, write a condensation of the ballot question and an explanation of the effect of the question. (NRS 293.250(5)). Also, the Secretary of State must consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine the fiscal impact of the petition on state and local governments. (NRS 295.015)). The Secretary of State assigns the ballot question a number for the General Election ballot.

Arguments for and against a petition are prepared by two committees appointed by the Secretary of State. The committees shall be composed of three persons each (3 persons who favor approval and 3 persons who oppose approval). The Secretary of State shall consider any persons who have expressed interest to serve on the committees. The committees may seek comments from the public in drafting their arguments and rebuttals. The arguments shall address the fiscal, environmental, public health, safety and welfare impacts of the petition. The language of the arguments must be easily understood and of reasonable length. The arguments shall be submitted to the Secretary of State for consideration. The Secretary of State may reject any arguments that he believes are libelous or factually inaccurate. The Secretary of State may also revise the language of an argument to make it more clear, concise or suitable for use on the ballot, but may not alter the meaning or effect of the argument without committee consent. The Secretary of State's rejection of a statement is a final decision for the purposes of judicial review. Within 5 days of the Secretary of State's rejection, the committee may appeal by filing a complaint in the First Judicial District Court. Not later than 3 working days after the complaint is filed by the committee, the Court shall set the matter for hearing and shall give priority to such a complaint over all other matters pending before the court, except for criminal proceedings. (NRS 293.250; 293.252).

COUNTY MEASURES PROPOSED BY PETITION

In a county whose population is 40,000 or more, for each countywide initiative or referendum to be placed on the ballot, the Board and County Clerk shall appoint two committees consisting of 3 persons each. One committee shall favor approval of the petition and the other committee shall oppose passage of the petition.

The committees prepare arguments for and against passage of the petition. The arguments shall address the fiscal, environmental, public health, safety and welfare impact of the petition. The County Clerk shall determine the maximum permissible length of an argument or rebuttal and determine the date the committee must submit them to the County Clerk. (NRS 295.121).

Upon receipt of an argument or rebuttal, the County Clerk shall review each statement in the argument and rebuttal. The Clerk may revise the language so that it is clear and concise, but cannot alter the meaning or effect without consent of the committee. The Clerk may reject any arguments he believes are libelous or factually inaccurate. The county clerk's rejection of a statement is a final decision for purposes of judicial review. Not later than 5 days after the Clerk rejects a statement, the committee may appeal the Clerk's rejection by filing a complaint in district court. The court shall set the matter for hearing not later than 3 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. (NRS 295.121).

NOTE: Those counties with a population of less than 40,000 may also choose to appoint committees and follow these same guidelines. (NRS 295.121(11)).

CITY MEASURES PROPOSED BY PETITION

In a city whose population is 10,000 or more, for each initiative or referendum to be placed on the ballot, the city council shall appoint two committees each consisting of three persons. One committee shall favor approval of the petition and the other shall oppose approval of the petition. The committees prepare arguments for and against approval of the petition. The arguments shall address the fiscal, environmental, public health, safety and welfare impacts of the petition. The City Clerk shall determine the maximum permissible length of an argument or rebuttal and determine the date the committee must submit them to the County Clerk. (NRS 295.217).

Upon receipt of an argument or rebuttal, the City Clerk shall review each statement in the argument and rebuttal. The Clerk may revise the language so that it is clear and concise, but cannot alter the meaning or effect without consent of the committee. The Clerk may reject any arguments he believes are libelous or factually inaccurate. The rejection of a statement is a final decision for purposes of judicial review. Not later than 5 days after the Clerk rejects a statement, the committee may appeal the rejection by filing a complaint in district court. The court shall set the matter for hearing not later than 3 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. (NRS 295.217).

BALLOT QUESTION ADVOCACY GROUPS

STATEWIDE, COUNTY, & MUNICIPAL PETITIONS

REPORTING REQUIREMENTS:

Nevada law requires every person or group of persons organized formally or informally who advocates the passage or defeat of a ballot question at any primary or general election to report their contributions and expenditures in excess of \$1,000. Also, every person or group of persons who initiates or circulates a petition for a constitutional amendment or a statewide measure and who receives over \$10,000 in support of the initiation or circulation must report contributions and expenditures in excess of \$1,000. To retrieve forms to report contribution and expenditures, please visit our website at www.secretaryofstate.biz or contact this office at (775) 684-5705. (NRS 294A.150; 294A.220; 294A.373; AB 604 of the 2007 Legislative Session).

WHERE TO FILE:

If the question is submitted to the voters of only one county, the reports must be filed with the County Clerk of that county. If the question is submitted to the voters of only one city, the reports must be filed with the City Clerk of that city. For ballot questions effecting statewide and multi-counties and districts, reports must be filed with the Secretary of State. (NRS 294A.150; 294A.220).

REGISTRATION REQUIREMENTS FOR BALLOT ADVOCACY GROUPS (BAG)

A Ballot Advocacy Group (BAG) who advocates the passage or defeat of a statewide measure must file a Statement of Organization with the Secretary of State before engaging in any such advocacy. (AB 604 of the 2007 Legislative Session).

REGISTRATION REQUIREMENTS FOR NON-PROFIT CORPORATIONS:

A non-profit corporation that intends to solicit or receive contributions, make contributions, or make expenditures designed to affect the outcome of a ballot question must report the names, addresses, and telephone numbers of its officers before engaging in any of the aforementioned activities. The required information must be submitted to the Secretary of State and will be posted on the Secretary of State's website. (NRS 294A.375).

SPECIAL NOTE ON PETITION CIRCULATION EXPENDITURES:

A person or group of persons that is required to report expenditures in connection with the circulation of a petition is not required to disclose the name, address, or amount paid to an individual circulator. However, the total amount paid to petition circulators must be reported. (Nevada Attorney General's Opinion, No. 99-37 (12/1/1999); NRS 294A.220; NAC 294A.075; Buckley v. ACLF, 525 U.S. 182 (1999)).

PETITION NOTES

STATEWIDE, COUNTY & CITY

- Each petition must include the following *enacting* clause for all statutes or amendments proposed by initiative petition: “The People of the State of Nevada do enact as follows”;
- The petition must embrace one subject only;
- The petition must contain a 200 word or less description of the effect;
- The petition may consist of more than one document;
- Each document of the petition may consist of one or more pages and must be bound together;
- Each document must include the full text of the proposed measure;
- Each document must bear the name of a county, and only registered voters of that county or city may sign the document;
- Each document must contain sequentially numbered spaces for the name of each person who signs the document, the signature of the person signing, the residence address of the person signing, the name of the county where the person who signs is registered to vote, and the date of the signature;
- Each document must contain an affidavit of the person who circulated the document. The affidavit must be on the last page of each document and be signed before a person authorized by law to administer oaths in the State of Nevada (a notary public);
- The circulator is not required to be a registered voter in Nevada (Nevada Attorney General Opinion 99-37 (12/1/1999));
- If the petition consists of more than one document, each page of each document must be sequentially numbered starting with the number one (1) for each county. The Clerk/Registrar will not accept a petition unless each page is numbered;
- Each signature on the petition must be in ink. The Clerk/Registrar shall disregard any signature that is not signed in ink;
- The number of valid signatures required is determined by multiplying the amount that equals 10 percent of the voters who voted in the entire State at the last preceding general election by the population percentage for that county. Total population of the State means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141 (c). Population percentage for that county means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States

Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141 (c), by the total population of the State. The number of valid signatures required on a petition is equal to 10% or more of the total votes cast at the last preceding general election. (NV Const. Art. 19, Sec. 2(2); SB 549 of the 2007 Legislative Session) (See chart on page 10). The last preceding general election for all petitions submitted in 2008 is considered the 2006 general election. (See Court Order of 3/2/05 in case # CV-S-05-0041(JCM), District of Nevada). Therefore, 58,628 valid signatures are required to qualify petitions submitted in 2008.

**THE SECRETARY OF STATE DOES NOT APPROVE THE LEGALITY OF THE
LANGUAGE CONTAINED ON THE PETITION**

NOTE: Sample petitions are provided in the appendix.
See: Nevada Constitution, Article 19
Nevada Administrative Code (NAC) 295.020

APPENDIX:

Sample Initiative Petition (multi-sheet)

Sample Referendum Petition (multi-sheet)

Article 19 of the Nevada Constitution

*Pertinent Sections of the Nevada Revised Statutes (NRS)**

Pertinent Sections of the Nevada Administrative Code (NAC)

2008 Initiative and Referendum Calendar

* The enclosed sections of the NRS do not reflect revisions made by the Nevada Legislature at its 2007 session as those revisions were not codified at the time this guide was published. Please check with the Legislative Counsel Bureau for the most recent version of the NRS.

Initiative Petition

State of Nevada

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

FULL TEXT OF THE PROPOSED MEASURE

(Insert full text of the proposed measure embracing one subject)

DESCRIPTION OF EFFECT

(Insert 200 words or less description of the effect)

County of _____ (Only registered voters of this county may sign below)

		This space for office use only	
1	PRINT YOUR NAME (last name, first name, initial)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY	COUNTY
2	PRINT YOUR NAME (last name, first name, initial)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY	COUNTY
3	PRINT YOUR NAME (last name, first name, initial)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY	COUNTY
4	PRINT YOUR NAME (last name, first name, initial)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY	COUNTY
5	PRINT YOUR NAME (last name, first name, initial)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY	COUNTY

Page ____ of ____

Referendum Petition State of Nevada

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

FULL TEXT OF THE PROPOSED MEASURE

(Insert full text of the proposed measure embracing one subject)

DESCRIPTION OF EFFECT

(Insert 200 words or less description of the effect)

County of _____ (Only registered voters of this county may sign below)

			This space for office use only
1	PRINT YOUR NAME (last name, first name, initial)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY
2	PRINT YOUR NAME (last name, first name, initial)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY
3	PRINT YOUR NAME (last name, first name, initial)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY
4	PRINT YOUR NAME (last name, first name, initial)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY
5	PRINT YOUR NAME (last name, first name, initial)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY

Page _____ of _____

Article 19 of the
NEVADA CONSTITUTION

INITIATIVE AND REFERENDUM

- SEC. 1. Referendum for approval or disapproval of statute or resolution enacted by legislature.
2. Initiative petition for enactment or amendment of statute or amendment of constitution; concurrent and consecutive amendments.
3. Referendum and initiative petitions: Contents and form; signatures; enacting clause; manner of verification of signatures.
4. Powers of initiative and referendum of registered voters of counties and municipalities.
5. Provisions of article self-executing; legislative procedures.
6. Limitation on initiative making appropriation or requiring expenditure of money.

Section 1. Referendum for approval or disapproval of statute or resolution enacted by legislature. 1. A person who intends to circulate a petition that a statute or resolution or part thereof enacted by the legislature be submitted to a vote of the people, before circulating the petition for signatures, shall file a copy thereof with the secretary of state. He shall file the copy not earlier than August 1 of the year before the year in which the election will be held.

2. Whenever a number of registered voters of this state equal to 10 percent or more of the number of voters who voted at the last preceding general election shall express their wish by filing with the secretary of state, not less than 120 days before the next general election, a petition in the form provided for in section 3 of this article that any statute or resolution or any part thereof enacted by the legislature be submitted to a vote of the people, the officers charged with the duties of announcing and proclaiming elections and of certifying nominations or questions to be voted upon shall submit the question of approval or disapproval of such statute or resolution or any part thereof to a vote of the voters at the next succeeding election at which such question may be voted upon by the registered voters of the entire state. The circulation of the petition shall cease on the day the petition is filed with the secretary of state or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest.

3. If a majority of the voters voting upon the proposal submitted at such election votes approval of such statute or resolution or any part thereof, such statute or resolution or any part thereof shall stand as the law of the state and shall not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. If a majority of such voters votes disapproval of such statute or resolution or any part thereof, such statute or resolution or any part thereof shall be void and of no effect.

Sec. 2. Initiative petition for enactment or amendment of statute or amendment of constitution; concurrent and consecutive amendments.

1. Notwithstanding the provisions of section 1 of article 4 of this constitution, but subject to the limitations of section 6 of this article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by section 3 of this article and shall be proposed by a number of registered voters equal to 10 percent or more of the number of voters who voted at the last preceding general election in not less than 75 percent of the counties in the state, but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire state at the last preceding general election.

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the secretary of state before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the legislature is held. After its circulation, it shall be filed with the secretary of state not less than 30 days prior to any regular session of the legislature. The circulation of the petition shall cease on the day the petition is filed with the secretary of state or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The secretary of state shall transmit such petition to the legislature as soon as the legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the legislature and approved by the governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in section 1 of this article. If the statute or amendment to a statute is rejected by the legislature, or if no action is taken thereon within 40 days, the secretary of state shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the supreme court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the legislature rejects such proposed statute or amendment, the governor may recommend to the legislature and the legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the governor, the question of approval or disapproval of each measure shall be submitted by the secretary of state to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the legislature to which an initiative petition proposing an amendment to a statute is presented which the legislature rejects or upon which it takes no action, the legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the secretary of state in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the legislature.

4. If the initiative petition proposes an amendment to the constitution, the person who intends to circulate it shall file a copy with the secretary of state before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the secretary of state not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire state. The circulation of the petition shall cease on the day

the petition is filed with the secretary of state or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The secretary of state shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the state, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the secretary of state shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this constitution upon completion of the canvass of votes by the supreme court.

5. If two or more measures which affect the same section of a statute or of the constitution are finally approved pursuant to this section, or an amendment to the constitution is finally so approved and an amendment proposed by the legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this section, another amendment is finally approved pursuant to this section, or an amendment proposed by the legislature is ratified, which affects the same section of the constitution but is compatible with the amendment given first approval, the secretary of state shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the secretary of state shall not submit the amendment given first approval to the voters again.

Sec. 3. Referendum and initiative petitions: Contents and form; signatures; enacting clause; manner of verification of signatures.

1. Each referendum petition and initiative petition shall include the full text of the measure proposed. Each signer shall affix thereto his or her signature, residence address and the name of the county in which he or she is a registered voter. The petition may consist of more than one document, but each document shall have affixed thereto an affidavit made by one of the signers of such document to the effect that all of the signatures are genuine and that each individual who signed such document was at the time of signing a registered voter in the county of his or her residence. The affidavit shall be executed before a person authorized by law to administer oaths in the State of Nevada. The enacting clause of all statutes or amendments proposed by initiative petition shall be: "The People of the State of Nevada do enact as follows:"

2. The legislature may authorize the secretary of state and the other public officers to use generally accepted statistical procedures in conducting a preliminary verification of the number of signatures submitted in connection with a referendum petition or an initiative petition, and for

this purpose to require petitions to be filed no more than 65 days earlier than is otherwise required by this article.

Sec. 4. Powers of initiative and referendum of registered voters of counties and municipalities. The initiative and referendum powers provided for in this article are further reserved to the registered voters of each county and each municipality as to all local, special and municipal legislation of every kind in or for such county or municipality. In counties and municipalities initiative petitions may be instituted by a number of registered voters equal to 15 percent or more of the voters who voted at the last preceding general county or municipal election. Referendum petitions may be instituted by 10 percent or more of such voters.

Sec. 5. Provisions of article self-executing; legislative procedures. The provisions of this article are self-executing but the legislature may provide by law for procedures to facilitate the operation thereof.

Sec. 6. Limitation on initiative making appropriation or requiring expenditure of money. This article does not permit the proposal of any statute or statutory amendment which makes an appropriation or otherwise requires the expenditure of money, unless such statute or amendment also imposes a sufficient tax, not prohibited by the constitution, or otherwise constitutionally provides for raising the necessary revenue.

Pertinent Sections of the
NEVADA REVISED STATUTES

CIRCULATION AND SUFFICIENCY OF CERTAIN PETITIONS

NRS 293.12756 Informational pamphlet concerning petitions; fee.

1. The secretary of state shall prepare an informational pamphlet describing the requirements for filing and circulating petitions. The pamphlet must also contain a sample of a petition to demonstrate an acceptable format for a petition.

2. The pamphlets must be made available to the public and must be distributed to any person who requests a pamphlet upon payment of the applicable fee, if any. The secretary of state may impose a fee for the pamphlet in an amount not to exceed the cost to produce the pamphlet.

(Added to NRS by 1993, 2664)

NRS 293.127565 Use of public buildings to gather signatures on petitions; regulations.

1. At each building that is open to the general public and occupied by the government of this state or a political subdivision of this state or an agency thereof, other than a building of a public elementary or secondary school, an area must be made available for the use of any person to gather signatures on a petition at any time that the building is open to the public. The area must be reasonable and may be inside or outside of the building. Each public officer or employee in control of the operation of a building governed by this subsection shall designate and approve the area required by this subsection for the building.

2. Before a person may use an area designated pursuant to subsection 1, the person must notify the public officer or employee in control of the operation of the building governed by subsection 1 of the dates and times that the person intends to use the area to gather signatures on a petition. The public officer or employee may not deny the person the use of the area.

3. A person aggrieved by a decision made by a public officer or employee pursuant to subsection 1 may appeal the decision to the secretary of state. The secretary of state shall review the decision to determine whether the public officer or employee designated a reasonable area as required by subsection 1.

4. The decision of the secretary of state is a final decision for the purposes of judicial review. The decision of the secretary of state may only be appealed in the first judicial district court.

5. The secretary of state may adopt regulations to carry out the provisions of subsection 3.

(Added to NRS by 2001, 1347)

NRS 293.12757 Qualification to sign petition. A person may sign a petition required under the election laws of this state on or after the date he is deemed to be registered to vote pursuant to subsection 5 of NRS 293.517 or subsection 5 of NRS 293.5235.

(Added to NRS by 1999, 3546)

NRS 293.12758 Receipt issued by county clerk; requirements for petition.

1. The county clerk shall issue a receipt to any person who submits a petition for the verification of signatures or a petition, declaration of or acceptance of candidacy. The receipt must state:

- (a) The number of documents submitted;
- (b) The number of pages of each document; and
- (c) The number of signatures which the person declares are on the petition.

2. If a petition consists of more than one document, all of the documents must be submitted to the county clerk for verification at the same time.

3. The county clerk shall not accept a petition unless each page of the petition is numbered.

4. Each signature on the petition must be signed in ink. The county clerk shall disregard any signature which is not signed in ink.

5. As used in this section, "document" includes material which is separately compiled and bound together and may consist of one or more sheets of paper.

(Added to NRS by 1993, 2664)

NRS 293.1276 County clerk to forward number of signatures to secretary of state; notice of failure to file required number of signatures; handling of petition.

1. Within 4 days, excluding Saturdays, Sundays and holidays, after the submission of a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110, the county clerk shall determine the total number of signatures affixed to the documents and forward that information to the secretary of state.

2. If the secretary of state finds that the total number of signatures filed with all the county clerks is less than 100 percent of the required number of registered voters, he shall so notify the person who submitted the petition and the county clerks and no further action may be taken in regard to the petition. If the petition is a petition to recall a county, district or municipal officer, the secretary of state shall also notify the officer with whom the petition is to be filed.

3. After the petition is submitted to the county clerk, it must not be handled by any other person except by an employee of the county clerk's office until it is filed with the secretary of state.

(Added to NRS by 1985, 1090; A 1987, 1361; 1993, 2665; 1997, 750; 1999, 2147)

NRS 293.1277 Verification of signatures by county clerks.

1. If the secretary of state finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county.

2. If more than 500 names have been signed on the documents submitted to him, a county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, he shall ensure that every application in the file is examined, including any application in his possession which may not yet be entered into his records. The county clerk shall rely only on the appearance of the signature and the address and date included with each signature in making his determination.

4. Except as otherwise provided in subsection 6, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of his examination and transmit the documents with the certificate to the secretary of state. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the secretary of state, the county clerk shall notify the secretary of state of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

5. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

6. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the secretary of state the documents containing the signatures of the registered voters.

7. The secretary of state may by regulation establish further procedures for carrying out the provisions of this section.

(Added to NRS by 1985, 1090; A 1987, 1361; 1993, 2665; 1995, 2257; 1997, 750; 1999, 2147; 2001, 641)

NRS 293.1278 Qualification or disqualification of petition upon receipt of certificates or amended certificates by secretary of state.

1. If the certificates received by the secretary of state from all the county clerks establish that the number of valid signatures is less than 90 percent of the required number of registered voters, the petition shall be deemed to have failed to qualify, and the secretary of state shall immediately so notify the petitioners and the county clerks.

2. If those certificates establish that the number of valid signatures is equal to or more than the sum of 100 percent of the number of registered voters needed to make the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the petition shall be deemed to qualify as of the date of receipt by the secretary of state of those certificates, and the secretary of state shall immediately so notify the petitioners and the county clerks.

3. If the certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient but the petition fails to qualify pursuant to subsection 2, each county clerk who received a request to remove a name pursuant to NRS 295.055 or 306.015 shall remove each name as requested, amend the certificate and transmit the amended certificate to the secretary of state. If the amended certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient, the petition shall be deemed to qualify as of the date of receipt by the

secretary of state of the amended certificates, and the secretary of state shall immediately so notify the petitioners and the county clerks.

(Added to NRS by 1985, 1091; A 1993, 2666; 2001, 642)

NRS 293.1279 Qualification or disqualification of petition upon verification of signatures.

1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the Secretary of State shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. If the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100 percent or more of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until he has removed each name as requested pursuant to NRS 295.055 or 306.015.

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk shall determine from the records of registration what number of registered voters have signed the petition. If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition, the county clerk must use the statewide voter registration list. The county clerk may rely on the appearance of the signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office.

5. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not forward to the Secretary of State the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the Secretary of State as of the date on which he receives certificates from the county clerks showing the petition to be signed by the requisite number of voters of the State.

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, he shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

(Added to NRS by 1985, 1091; A 1985, 551; 1987, 1362; 1993, 2666; 1997, 751; 1999, 2148; 2001, 642; 2003, 2174)

NRS 293.12793 Appeal with secretary of state contesting verification of votes; notification of public officer who is subject of petition to recall; consideration and investigation of allegations.

1. If the secretary of state determines that the total number of signatures that the county clerks have certified pursuant to NRS 293.1277 or 293.1279 is less than 100 percent of the number of registered voters needed to make the petition sufficient, the person who submitted the petition may contest the verification of the signatures by filing an appeal with the secretary of state. The appeal must:

(a) Be filed within 5 working days after receipt of notification of the determination of the secretary of state;

(b) Include each reason for the appeal; and

(c) Include a statement of the number of signatures, if any, that the county clerk determined were invalid.

2. The secretary of state shall:

(a) If the petition was circulated pursuant to chapter 306 of NRS, immediately notify the public officer who is the subject of the petition of the appeal by the person who submitted the petition; and

(b) Consider the allegations and conduct an investigation, if necessary.

(Added to NRS by 1993, 2664; A 1997, 752; 1999, 3546)

NRS 293.12795 Action by secretary of state upon review of appeal; judicial review of decision of secretary of state.

1. If an appeal is based upon the results of the verification of signatures on a petition performed pursuant to NRS 293.1277 or 293.1279, the secretary of state shall:

(a) If he finds for the appellant, order the county clerk to recertify the petition, including as verified signatures all contested signatures which the secretary of state determines are valid. If the county clerk has not yet removed each name as requested pursuant to NRS 295.055 or 306.015, the county clerk shall do so before recertifying the petition.

(b) If he does not find for the appellant, notify the appellant and the county clerk that the petition remains insufficient.

2. If the secretary of state is unable to make a decision on the appeal based upon the documents submitted to him, the secretary of state may order the county clerk to reverify the signatures.

3. The decision of the secretary of state is a final decision for the purposes of judicial review. The decision of the secretary of state may only be appealed in the first judicial district court.

(Added to NRS by 1993, 2664; A 2001, 643)

CHAPTER 295 - INITIATIVE AND REFERENDUM

NRS ~~295~~.009 Requirements for petition: Must embrace one subject; must include description.

1. Each petition for initiative or referendum must:

(a) Embrace but one subject and matters necessarily connected therewith and pertaining thereto; and

(b) Set 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 description must appear on each signature page of the petition.

2. For the purposes of paragraph (a) of subsection 1, a petition for initiative or referendum embraces but one subject and matters necessarily connected therewith and pertaining thereto, if the parts of the proposed initiative or referendum are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative or referendum.

(Added to NRS by 2005, 2837)

NRS ~~295~~.015 Copy of petition for initiative or referendum to be filed with Secretary of State before presentation of petition to voters for signatures; determination if petition has fiscal effect; posting on Secretary of State's Internet website.

1. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, a copy of the petition for initiative or referendum, including the description required pursuant to NRS ~~295~~.009, must be placed on file with the Secretary of State.

2. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1, the Secretary of State shall consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.

3. Not later than 10 business days after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection 1, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS ~~295~~.009 and any fiscal note prepared pursuant to subsection 2, on his Internet website.

(Added to NRS by 1963, 1384; A 1981, 12; 1985, 1112; 2005, 2838)

NRS ~~295~~.035 Petition for initiative proposing amendment to Constitution: Secretary of State to use same number for identification of petition when submitted at successive elections. If the initiative petition proposes an amendment to the Constitution, in resubmitting the initiative to the voters, the Secretary of State shall use the same identifying number or other identification used for the first submission.

(Added to NRS by 1963, 1384; A 1973, 332; 1985, 550)

NRS ~~295~~.045 Petition for referendum: Filing; submission to voters at general election.

1. A petition for referendum must be filed with the Secretary of State not less than 120 days before the date of the next succeeding general election.

2. The Secretary of State shall certify the questions to the county clerks, and they shall publish them in accordance with the provisions of law requiring county clerks to publish questions and proposed constitutional amendments which are to be submitted for popular vote.

3. The title of the statute or resolution must be set out on the ballot, and the question printed upon the ballot for the information of the voters must be as follows: "Shall the statute (setting out its title) be approved?"

4. Where a mechanical voting system is used, the title of the statute must appear on the list of offices and candidates and the statements of measures to be voted on and may be condensed to no more than 25 words.

5. The votes cast upon the question must be counted and canvassed as the votes for state officers are counted and canvassed.

(Added to NRS by 1963, 1383; A 1977, 247; 1979, 268; 1981, 13; 1985, 1112; 2005, 2838)

NRS ~~293.055~~ .055 Petition for initiative or referendum: Regulations specifying format; each document of petition limited to voters of single county; removal of name from petition.

1. The Secretary of State shall by regulation specify:

(a) The format for the signatures on a petition for an initiative or referendum and make free specimens of the format available upon request. Each signature must be dated.

(b) The manner of fastening together several sheets circulated by one person to constitute a single document.

2. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document.

3. A person who signs a petition may request that the county clerk remove his name from it by transmitting his request in writing to the county clerk at any time before the petition is filed with the county clerk.

(Added to NRS by 1963, 1385; A 1985, 550; 1987, 1374; 2001, 644)

NRS ~~293.056~~ .056 Petition for initiative or referendum: Requirements for submission of signatures to county clerk.

1. Before a petition for initiative or referendum is filed with the Secretary of State, the petitioners must submit to each county clerk for verification pursuant to NRS 293.1276 to 293.1279, inclusive, the document or documents which were circulated for signature within his county. The clerks shall give the person submitting a document or documents a receipt stating the number of documents and pages and the person's statement of the number of signatures contained therein.

2. If a petition for initiative proposes a statute or an amendment to a statute, the document or documents must be submitted not later than the second Tuesday in November of an even-numbered year.

3. If a petition for initiative proposes an amendment to the Constitution, the document or documents must be submitted not later than the third Tuesday in June of an even-numbered year.

4. If the petition is for referendum, the document or documents must be submitted not later than the third Tuesday in May of an even-numbered year.

5. All documents which are submitted to a county clerk for verification must be submitted at the same time.

(Added to NRS by 1983, 923; A 1985, 551, 1113; 1991, 2226; 1993, 2669; 1999, 3560)

NRS ~~295~~.061 Challenge to description of petition; challenge to legal sufficiency of petition.

1. The description of the effect of an initiative or referendum required pursuant to **NRS ~~295~~.009** may be challenged by filing a complaint in the First Judicial District Court not later than 30 days, Saturdays, Sundays and holidays excluded, after a copy of the petition is initially placed on file with the Secretary of State pursuant to **NRS ~~295~~.015**. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 30 days after the complaint is filed and shall give priority to such a complaint over all criminal proceedings.

2. The legal sufficiency of a petition for initiative or referendum may be challenged by filing a complaint in district court not later than 7 days, Saturdays, Sundays and holidays excluded, after the petition is certified as sufficient by the Secretary of State. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 30 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.

(Added to NRS by 1999, 3560; A 2005, 2839)

COUNTY INITIATIVE AND REFERENDUM

NRS ~~295~~.075 "Board" defined. As used in **NRS ~~295~~.075** to **~~295~~.125**, inclusive, unless the context otherwise requires, "board" means the board of county commissioners.

(Added to NRS by 1967, 380; A 1999, 2120)

NRS ~~295~~.085 Registered voters' power of initiative and referendum concerning county ordinances. The registered voters of a county may:

1. Propose ordinances to the board and, if the board fails to adopt an ordinance so proposed without change in substance, adopt or reject it at a general election.
2. Require reconsideration by the board of any adopted ordinance and, if the board fails to repeal an ordinance so reconsidered, approve or reject it at a general election.

(Added to NRS by 1967, 380; A 1993, 1032; 2005, 2839)

NRS ~~295~~.095 Commencement of proceedings: Petitioners' committee; form and requirements of petition; circulator's affidavit; receipt for petition issued by clerk.

1. Any five registered voters of the county may commence initiative or referendum proceedings by filing with the county clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

2. Initiative petitions must be signed by a number of registered voters of the county equal to 15 percent or more of the number of voters who voted at the last preceding general election in the county.

3. Referendum petitions must be signed by a number of registered voters of the county equal to 10 percent or more of the number of voters who voted at the last preceding general election in the county.

4. A petition must be submitted to the county clerk for verification, pursuant to NRS ~~293~~ 250 to 290, inclusive, not later than:

(a) One hundred and eighty days after the date that the affidavit required by subsection 1 is filed with the county clerk; or

(b) One hundred and thirty days before the election,

whichever is earlier.

5. A petition may consist of more than one document, but all documents of a petition must be uniform in size and style, numbered and assembled as one instrument for submission. Each signature must be executed in ink or indelible pencil and followed by the address of the person signing and the date on which he signed the petition. All signatures on a petition must be obtained within the period specified in subsection 4. Each document must contain, or have attached thereto throughout its circulation, the full text of the ordinance proposed or sought to be reconsidered.

6. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

(a) That he personally circulated the document;

(b) The number of signatures thereon;

(c) That all the signatures were affixed in his presence;

(d) That he believes them to be genuine signatures of the persons whose names they purport to be; and

(e) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

7. The county clerk shall issue a receipt to any person who submits a petition pursuant to this section. The receipt must set forth the number of:

(a) Documents included in the petition;

(b) Pages in each document; and

(c) Signatures that the person declares are included in the petition.

(Added to NRS by 1967, 380; A 1989, 1182; 1997, 2787; 2001, 644, 2964.)

NRS ~~105~~ **105 Certification of sufficiency of petition; review of certification.**

1. Within 20 days after the petition is submitted to the county clerk pursuant to NRS ~~105~~ 095, the county clerk shall complete a certificate as to its sufficiency.

2. If a petition is certified sufficient, or if a petition is certified insufficient and the petitioners' committee does not elect to request board review under subsection 3 within the time required, the county clerk shall promptly present his certificate to the board and the certificate is a final determination as to the sufficiency of the petition.

3. If a petition has been certified insufficient, the committee may, within 2 days after receiving a copy of the certificate, file a request that it be reviewed by the board. The board shall review the certificate at its next meeting following the filing of the request and approve or disapprove it, and the determination of the board is a final determination as to the sufficiency of the petition.

4. A final determination as to the sufficiency of a petition is subject to judicial review. If the final determination is challenged by filing a complaint in district court, the court shall set the matter for hearing not later than 3 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. A final determination of insufficiency, even if sustained upon judicial review, does not prejudice the filing of a new petition for the same purpose.

(Added to NRS by 1967, 380; A 1989, 1183; 2001, 2965; 2005, 2839)

NRS ~~295~~.115 Consideration by board; submission to registered voters; withdrawal of petition.

1. When an initiative or referendum petition has been finally determined sufficient, the board shall promptly consider the proposed initiative ordinance in the manner provided by law for the consideration of ordinances generally or reconsider the referred ordinance by voting its repeal. If, within 30 days after the date the petition was finally determined sufficient, the board fails to adopt the proposed initiative ordinance without any change in substance or fails to repeal the referred ordinance, the board shall submit the proposed or referred ordinance to the registered voters of the county.

2. The vote of the county on the proposed or referred ordinance must be held at the next general election. Copies of the proposed or referred ordinance must be made available at the polls.

3. An initiative or referendum petition may be withdrawn at any time before the 30th day preceding the day scheduled for a vote of the county or the deadline for placing questions on the ballot, whichever is earlier, by filing with the county clerk a request for withdrawal signed by at least four members of the petitioners' original committee. Upon the filing of that request, the petition has no further effect and all proceedings thereon must be terminated.

(Added to NRS by 1967, 381; A 1969, 896; 1993, 1032; 2001, 2966; 2005, 2840)

NRS ~~295~~.121 Appointment of committees to prepare arguments advocating and opposing approval of ballot questions; duties of committees; regulations; preparation of arguments by county clerk if board fails to appoint committee; review of arguments; placement of arguments in sample ballots.

1. In a county whose population is 40,000 or more, for each initiative, referendum or other question to be placed on the ballot by:

(a) The board, including, without limitation, pursuant to NRS 293.482, ~~295~~.115 or ~~295~~.160;

(b) The governing body of a school district, public library or water district authorized by law to submit questions to some or all of the qualified electors or registered voters of the county; or

(c) A metropolitan police committee on fiscal affairs authorized by law to submit questions to some or all of the qualified electors or registered voters of the county,

□ the board shall, in consultation with the county clerk pursuant to subsection 5, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the initiative, referendum or other question and the other committee must be composed of three persons who oppose approval by the voters of the initiative, referendum or other question.

2. If, after consulting with the county clerk pursuant to subsection 5, the board is unable to appoint three persons who are willing to serve on a committee, the board may appoint fewer than three persons to that committee, but the board must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of an initiative, referendum or other question and the committee that opposes approval by the voters of that initiative, referendum or other question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the initiative, referendum or other question.

4. The county clerk may establish and maintain a list of the persons who have expressed an interest in serving on a committee appointed pursuant to this section. The county clerk, after exercising due diligence to locate persons who favor approval by the voters of an initiative, referendum or other question to be placed on the ballot or who oppose approval by the voters of an initiative, referendum or other question to be placed on the ballot, may use the names on a list established pursuant to this subsection to:

(a) Make recommendations pursuant to subsection 5; and

(b) Appoint members to a committee pursuant to subsection 6.

5. Before the board appoints a committee pursuant to this section, the county clerk shall:

(a) Recommend to the board persons to be appointed to the committee; and

(b) Consider recommending pursuant to paragraph (a):

(1) Any person who has expressed an interest in serving on the committee; and

(2) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

6. If the board of a county whose population is 40,000 or more fails to appoint a committee as required pursuant to this section, the county clerk shall, in consultation with the district attorney, prepare an argument advocating approval by the voters of the initiative, referendum or other question and an argument opposing approval by the voters of the initiative, referendum or other question. Each argument prepared by the county clerk must satisfy the requirements of paragraph (f) of subsection 7 and any rules or regulations adopted by the county clerk pursuant to subsection 8. The county clerk shall not prepare the rebuttal of the arguments required pursuant to paragraph (e) of subsection 7.

7. A committee appointed pursuant to this section:

(a) Shall elect a chairman for the committee;

(b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;

(c) May seek and consider comments from the general public;

(d) Shall prepare an argument either advocating or opposing approval by the voters of the initiative, referendum or other question, based on whether the members were appointed to advocate or oppose approval by the voters of the initiative, referendum or other question;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The fiscal impact of the initiative, referendum or other question;

(2) The environmental impact of the initiative, referendum or other question; and

(3) The impact of the initiative, referendum or other question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the county clerk not later than the date prescribed by the county clerk pursuant to subsection 8.

8. The county clerk of a county whose population is 40,000 or more shall provide, by rule or regulation:

(a) The maximum permissible length of an argument or rebuttal prepared pursuant to this section; and

(b) The date by which an argument or rebuttal prepared pursuant to this section must be submitted by the committee to the county clerk.

9. Upon receipt of an argument or rebuttal prepared pursuant to this section, the county clerk:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative, referendum or other question pertains; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

Not later than 5 days after the county clerk rejects a statement pursuant to this subsection, the committee may appeal that rejection to the district attorney. The district attorney shall review the statement and the reasons for its rejection and may receive evidence, documentary or testimonial, to aid him in his decision. Not later than 3 business days after the appeal by the committee, the district attorney shall issue his decision rejecting or accepting the statement. The decision of the district attorney is a final decision for the purposes of judicial review. If the decision of the district attorney is challenged by filing a complaint in district court, the court shall set the matter for hearing not later than 3 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.

10. The county clerk shall place in the sample ballot provided to the registered voters of the county each argument and rebuttal prepared pursuant to this section, containing all statements that were not rejected pursuant to subsection 9. The county clerk may revise the language submitted by the committee so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect without the consent of the committee.

11. In a county whose population is less than 40,000:

(a) The board may appoint committees pursuant to this section.

(b) If the board appoints committees pursuant to this section, the county clerk shall provide for rules or regulations pursuant to subsection 8.

12. Except as otherwise provided in this subsection, if a question is to be placed on the ballot by an entity described in paragraph (b) or (c) of subsection 1, the entity must provide a copy and explanation of the question to the county clerk at least 30 days earlier than the date required for the submission of such documents pursuant to subsection 1 of NRS 293.481. This subsection does not apply to a question if the date that the question must be submitted to the county clerk is governed by subsection 2 of NRS 293.481.

13. The provisions of chapter 241 of NRS do not apply to any consultations, deliberations, hearings or meetings conducted pursuant to this section.

(Added to NRS by 1999, 2118; A 2001, 645, 1974; 2003, 1662, 1693, 3199, 3513; 2005, 2840)

NRS ~~291~~ 125 Results of election.

1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(Added to NRS by 1967, 382)

COUNTY REFERENDUM CONCERNING SPECIFIC LEGISLATIVE ACTS OR RESOLUTIONS

NRS ~~295~~.140 Petition for referendum: Form and requirements; circulator's affidavit; receipt issued by clerk; certification of sufficiency; review of certification.

1. Whenever 10 percent or more of the registered voters of any county of this State, as shown by the number of registered voters who voted at the last preceding general election, express their wish that any act or resolution enacted by the Legislature, and pertaining to that county only, be submitted to the vote of the people, they shall submit to the county clerk a petition, which must contain the names and residence addresses of at least 10 percent of the registered voters of that county, demanding that a referendum vote be had by the people of the county at the next general election upon the act or resolution on which the referendum is demanded.

2. A petition must be submitted to the county clerk for verification, pursuant to **NRS ~~295~~ 250 to ~~295~~ 290**, inclusive, not later than 130 days before the time set for the next succeeding general election.

3. A petition may consist of more than one document, but all documents of a petition must be uniform in size and style, numbered and assembled as one instrument for submission. Each signature must be executed in ink or indelible pencil and followed by the address of the person signing and the date on which he signed the petition. Each document must contain, or have attached thereto throughout its circulation, the full text of the act or resolution on which the referendum is demanded.

4. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

- (a) That he personally circulated the document;
- (b) The number of signatures thereon;
- (c) That all the signatures were affixed in his presence;
- (d) That he believes them to be genuine signatures of the persons whose names they purport to be; and
- (e) That each signer had an opportunity before signing to read the full text of the act or resolution on which the referendum is demanded.

5. The county clerk shall issue a receipt to any person who submits a petition pursuant to this section. The receipt must set forth the number of:

- (a) Documents included in the petition;
- (b) Pages in each document; and
- (c) Signatures that the person declares are included in the petition.

6. Within 20 days after a petition is submitted, the county clerk shall complete a certificate as to its sufficiency. Unless a request for review is filed pursuant to subsection 7, the certificate is a final determination as to the sufficiency of the petition.

7. If a petition is certified insufficient, the person who submitted the petition may, within 2 days after receiving a copy of the certificate, file a request that it be reviewed by the board of county commissioners. The board shall review the certificate at its next meeting following the

filing of the request and approve or disapprove it, and the determination of the board is a final determination as to the sufficiency of the petition.

8. A final determination as to the sufficiency of a petition is subject to judicial review. If the final determination is challenged by filing a complaint in district court, the court shall set the matter for hearing not later than 3 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. A final determination of insufficiency, even if sustained upon judicial review, does not prejudice the filing of a new petition for the same purpose.

(Added to NRS by 1960, 280; A 1993, 1033; 2001, 2966; 2005, 2842)

NRS ~~201~~→.150 Names of registered voters may be contained in more than one petition; verification of petition.

1. The names of the registered voters petitioning need not be all upon one petition, but may be contained on one or more petitions; but each petition shall be verified by at least one of the voters who has signed such petition.

2. The voter making the verification shall swear, on information and belief, that the persons signing the petition are registered voters of the county and state, and that such signatures are genuine and were executed in his presence.

(Added to NRS by 1960, 280)

NRS ~~201~~→.160 Submission of question to people; publication.

1. If the petition is determined to be sufficient, the county clerk shall, at the next general election, submit the act or resolution, by appropriate questions on the ballot, for the approval or disapproval of the people of that county.

2. The county clerk shall publish those questions in accordance with the provisions of law requiring county clerks to publish questions and proposed constitutional amendments which are to be submitted for popular vote.

(Added to NRS by 1960, 280; A 1993, 1033; 2001, 2967; 2005, 2843)

NRS ~~295~~→.170 Form of question on ballot; count and canvass of votes.

1. The subject matter of such questions must be stated concisely on the ballot, and the question printed upon the ballot for the information of the voter must be as follows: "Shall the act (setting out the title thereof) be approved?"

2. Where a mechanical voting system is used, the title of the act must appear on the list of offices and candidates and the statements of measures to be voted on and may be condensed by the district attorney to 20 words.

3. The district attorney shall prepare an explanation of each such question, which must be placed on the ballot or the list of offices and candidates and the statements of measures to be voted on, or posted in the polling place.

4. The votes cast upon such question must be counted and canvassed as the votes for county officers are counted and canvassed.

(Added to NRS by 1960, 281; A 1967, 1226; 1977, 248; 1985, 1114)

NRS ~~201~~→.180 Effect of approval or disapproval of majority of registered voters.

1. When a majority of the registered voters of the county voting upon the question submitted, by their vote, approve the act or resolution, it is the law of the State, and may not be repealed, overruled, annulled, set aside or in any way made inoperative, except by a direct vote of the registered voters of that county.

2. When a majority of the registered voters of that county voting upon the question submitted disapproves, the act or resolution is void.

(Added to NRS by 1960, 281; A 1987, 1374)

MUNICIPAL INITIATIVE AND REFERENDUM

NRS ~~295~~.195 Definitions. As used in NRS ~~295~~.195 to ~~295~~.220, inclusive, unless the context otherwise requires:

1. "City" means an incorporated city.
2. "Council" means the governing body of a city.

(Added to NRS by 1967, 377; A 1987, 1719; 1999, 2120)

NRS ~~295~~.200 Registered voters' power of initiative and referendum concerning city ordinances. The registered voters of a city may:

1. Propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without change in substance, adopt or reject it at the next general city election or general election.
2. Require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, approve or reject it at the next general city election or general election.

(Added to NRS by 1967, 378; A 1987, 364; 1993, 1033; 2005, 2844)

NRS ~~295~~.205 Commencement of proceedings: Petitioners' committee; form and requirements of petition; circulator's affidavit; receipt for petition issued by clerk.

1. Any five registered voters of the city may commence initiative or referendum proceedings by filing with the city clerk an affidavit:

- (a) Stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form;
- (b) Stating their names and addresses;
- (c) Specifying the address to which all notices to the committee are to be sent; and
- (d) Setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

2. Initiative petitions must be signed by a number of registered voters of the city equal to 15 percent or more of the number of voters who voted at the last preceding city election.

3. Referendum petitions must be signed by a number of registered voters of the city equal to 10 percent or more of the number of voters who voted at the last preceding city election.

4. A petition must be submitted to the city clerk for verification, pursuant to NRS ~~295~~.250 to ~~295~~.290, inclusive, not later than:

(a) One hundred and eighty days after the date that the affidavit required by subsection 1 is filed with the city clerk; or

(b) One hundred and thirty days before the election,

whichever is earlier.

5. A petition may consist of more than one document, but all documents of a petition must be uniform in size and style, numbered and assembled as one instrument for submission. Each signature must be executed in ink or indelible pencil and followed by the address of the person signing and the date on which he signed the petition. All signatures on a petition must be obtained within the period specified in subsection 4. Each document must contain, or have

attached thereto throughout its circulation, the full text of the ordinance proposed or sought to be reconsidered.

6. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

- (a) That he personally circulated the document;
- (b) The number of signatures thereon;
- (c) That all the signatures were affixed in his presence;
- (d) That he believes them to be genuine signatures of the persons whose names they purport to be; and
- (e) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

7. The city clerk shall issue a receipt to any person who submits a petition pursuant to this section. The receipt must set forth the number of:

- (a) Documents included in the petition;
- (b) Pages in each document; and
- (c) Signatures that the person declares are included in the petition.

(Added to NRS by 1967, 378; A 1987, 364; 1989, 1184; 1997, 2788; 2001, 646, 2967)

NRS ~~205~~ 210 Certification of sufficiency of petition; review of certification.

1. Within 20 days after the petition is submitted to the city clerk pursuant to NRS ~~205~~ 205, the city clerk shall complete a certificate as to its sufficiency.

2. If a petition is certified sufficient, or if a petition is certified insufficient and the petitioners' committee does not elect to request council review under subsection 3 within the time required, the city clerk must promptly present his certificate to the council and the certificate is a final determination as to the sufficiency of the petition.

3. If a petition has been certified insufficient, the committee may, within 2 days after receiving the copy of the certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of the request and approve or disapprove it, and the council's determination is a final determination as to the sufficiency of the petition.

4. A final determination as to the sufficiency of a petition is subject to judicial review. If the final determination is challenged by filing a complaint in district court, the court shall set the matter for hearing not later than 3 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. A final determination of insufficiency, even if sustained upon judicial review, does not prejudice the filing of a new petition for the same purpose.

(Added to NRS by 1967, 378; A 1989, 1184; 2001, 2968; 2005, 2844)

NRS ~~215~~ 215 Consideration by council; submission to registered voters; withdrawal of petition.

1. When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided by law for the consideration of ordinances generally or reconsider the referred ordinance by voting its repeal. If, within 30 days after the date the petition was finally determined sufficient, the council fails to adopt the proposed initiative ordinance without any change in substance or fails to repeal the referred ordinance, the council shall submit the proposed or referred ordinance to the registered voters of the city.

2. The vote of the city on the proposed or referred ordinance must be held at the next general city election or general election. Copies of the proposed or referred ordinance must be made available at the polls.

3. An initiative or referendum petition may be withdrawn at any time before the 30th day preceding the day scheduled for a vote of the city or the deadline for placing questions on the ballot, whichever is earlier, by filing with the city clerk a request for withdrawal signed by at least four members of the petitioners' original committee. Upon the filing of that request, the petition has no further effect and all proceedings thereon must be terminated.

(Added to NRS by 1967, 379; A 1969, 896; 1987, 364; 1993, 1033; 2001, 2969 ; 2005, 2844)

NRS ~~295~~ 217 Appointment of committees to prepare arguments advocating and opposing approval of ballot questions; duties of committees; regulations; preparation of arguments by city clerk if governing body fails to appoint committee; review of arguments; placement of arguments in sample ballots.

1. In a city whose population is 10,000 or more, for each initiative, referendum or other question to be placed on the ballot by the:

(a) Council, including, without limitation, pursuant to NRS 293.482 or ~~295~~ 215 ; or

(b) Governing body of a public library or water district authorized by law to submit questions to some or all of the qualified electors or registered voters of the city,

the council shall, in consultation pursuant to subsection 5 with the city clerk or other city officer authorized to perform the duties of the city clerk, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the initiative, referendum or other question and the other committee must be composed of three persons who oppose approval by the voters of the initiative, referendum or other question.

2. If, after consulting with the city clerk pursuant to subsection 5, the council is unable to appoint three persons willing to serve on a committee, the council may appoint fewer than three persons to that committee, but the council must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of an initiative, referendum or other question and the committee that opposes approval by the voters of that initiative, referendum or other question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the initiative, referendum or other question.

4. The city clerk may establish and maintain a list of the persons who have expressed an interest in serving on a committee appointed pursuant to this section. The city clerk, after exercising due diligence to locate persons who favor approval by the voters of an initiative, referendum or other question to be placed on the ballot or who oppose approval by the voters of an initiative, referendum or other question to be placed on the ballot, may use the names on a list established pursuant to this subsection to:

(a) Make recommendations pursuant to subsection 5; and

(b) Appoint members to a committee pursuant to subsection 6.

5. Before the council appoints a committee pursuant to this section, the city clerk shall:

(a) Recommend to the council persons to be appointed to the committee; and

(b) Consider recommending pursuant to paragraph (a):

(1) Any person who has expressed an interest in serving on the committee; and

(2) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

6. If the council of a city whose population is 10,000 or more fails to appoint a committee as required pursuant to this section, the city clerk shall, in consultation with the city attorney, prepare an argument advocating approval by the voters of the initiative, referendum or other question and an argument opposing approval by the voters of the initiative, referendum or other question. Each argument prepared by the city clerk must satisfy the requirements of paragraph (f) of subsection 7 and any rules or regulations adopted by the city clerk pursuant to subsection 8. The city clerk shall not prepare the rebuttal of the arguments required pursuant to paragraph (e) of subsection 7.

7. A committee appointed pursuant to this section:

(a) Shall elect a chairman for the committee;

(b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;

(c) May seek and consider comments from the general public;

(d) Shall prepare an argument either advocating or opposing approval by the voters of the initiative, referendum or other question, based on whether the members were appointed to advocate or oppose approval by the voters of the initiative, referendum or other question;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The fiscal impact of the initiative, referendum or other question;

(2) The environmental impact of the initiative, referendum or other question; and

(3) The impact of the initiative, referendum or other question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the city clerk not later than the date prescribed by the city clerk pursuant to subsection 8.

8. The city clerk of a city whose population is 10,000 or more shall provide, by rule or regulation:

(a) The maximum permissible length of an argument or rebuttal prepared pursuant to this section; and

(b) The date by which an argument or rebuttal prepared pursuant to this section must be submitted by the committee to the city clerk.

9. Upon receipt of an argument or rebuttal prepared pursuant to this section, the city clerk:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative, referendum or other question pertains; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

Not later than 5 days after the city clerk rejects a statement pursuant to this subsection, the committee may appeal that rejection to the city attorney or other city officer appointed to hear the appeal by the city council. The city attorney or other city officer appointed to hear the appeal shall review the statement and the reasons for its rejection and may receive evidence, documentary or testimonial, to aid him in his decision. Not later than 3 business days after the appeal by the committee, the city attorney or other city officer appointed to hear the appeal shall

issue his decision rejecting or accepting the statement. The decision of the city attorney or other city officer appointed to hear the appeal is a final decision for the purposes of judicial review. If the decision of the city attorney or other city officer appointed to hear the appeal is challenged by filing a complaint in district court, the court shall set the matter for hearing not later than 3 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.

10. The city clerk shall place in the sample ballot provided to the registered voters of the city each argument and rebuttal prepared pursuant to this section, containing all statements that were not rejected pursuant to subsection 9. The city clerk may revise the language submitted by the committee so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect without the consent of the committee.

11. In a city whose population is less than 10,000:

(a) The council may appoint committees pursuant to this section.

(b) If the council appoints committees pursuant to this section, the city clerk shall provide for rules or regulations pursuant to subsection 8.

12. If a question is to be placed on the ballot by an entity described in paragraph (b) of subsection 1, the entity must provide a copy and explanation of the question to the city clerk at least 30 days earlier than the date required for the submission of such documents pursuant to subsection 1 of NRS 293.481. This subsection does not apply to a question if the date that the question must be submitted to the city clerk is governed by subsection 2 of NRS 293.481.

(Added to NRS by 1999, 2119; A 2001, 647, 1976; 2003, 1695, 3201; 2005, 2845)

NRS ~~296~~→.220 Results of election.

1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(Added to NRS by 1967, 379)

SUFFICIENCY OF CERTAIN PETITIONS

NRS ~~295~~→.250 Determination of total number of signatures.

1. Upon submission of a petition containing signatures that are required to be verified pursuant to NRS ~~295~~→.095, ~~295~~→.140 or ~~295~~→.205, the county or city clerk shall determine the total number of signatures on the petition.

2. If the county or city clerk finds that the total number of signatures on the petition is:

(a) One hundred percent or more of the required number of signatures of registered voters, the county or city clerk shall examine the signatures for verification as provided in NRS ~~295~~→.260.

(b) Less than 100 percent of the required number of signatures of registered voters:

(1) The petition shall be deemed insufficient; and

(2) The county or city clerk shall not examine the signatures for verification as provided in NRS ~~295~~→.260.

(Added to NRS by 2001, 2962)

NRS ~~201~~.260 Verification of signatures.

1. If the total number of signatures on the petition is 500 or less, the county or city clerk shall examine every signature on the petition for verification.

2. Except as otherwise provided in this subsection, if the total number of signatures on the petition is more than 500, the county or city clerk shall examine the signatures only by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county or city clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500, or 5 percent, of the signatures, whichever is greater. If the examination of the random sample shows that the number of valid signatures is less than 90 percent of the number of signatures of registered voters needed to certify the petition sufficient, the petition must be certified insufficient pursuant to subsection 5. If the examination of the random sample shows that the number of valid signatures is 90 percent or more but less than 100 percent of the number of signatures of registered voters needed to certify the petition sufficient, the county or city clerk shall continue to examine the signatures for verification until he has:

(a) Determined that 100 percent of the number of signatures of registered voters needed to certify the petition sufficient are valid; or

(b) Examined every signature for verification.

3. In determining from the records of registration the number of registered voters who have signed the petition, and in examining the signatures on the petition for verification, the county or city clerk may use any file or list of registered voters maintained by his office or facsimiles of the signatures of voters. If the county or city clerk uses the file of applications to register to vote, he shall ensure that every application in the file is examined, including any application in his possession which may not yet be entered into his records. The county or city clerk may rely on the appearance of the signature, and the address and date included with each signature, in making his determination. Notwithstanding the provisions of this subsection, a petition must not be certified insufficient for lack of the required number of valid signatures if, in the absence of other proof of disqualification, any signature on the face thereof does not exactly correspond with the signature appearing on the file or list of registered voters used by the county or city clerk and the identity of the signer can be ascertained from the face of the petition.

4. If necessary, the board of county commissioners or the governing body of the city shall allow the county or city clerk additional assistants for examining the signatures and provide for their compensation.

5. If, pursuant to the examination of signatures for verification as required by this section, the number of valid signatures is:

(a) One hundred percent or more of the number of signatures of registered voters needed to certify the petition sufficient, the petition must be certified sufficient.

(b) Less than 100 percent of the number of signatures of registered voters needed to certify the petition sufficient, the petition must be certified insufficient.

(Added to NRS by 2001, 2963)

NRS ~~275~~.270 Certification of sufficiency or insufficiency of petition; date petition deemed filed.

1. Upon the determination of the sufficiency or insufficiency of the petition pursuant to NRS ~~250~~.250 or NRS ~~260~~.260, the county or city clerk shall:

(a) Attach a certificate to the petition indicating the date and the sufficiency or insufficiency of the petition;

(b) If the petition is certified insufficient, specify the deficiencies in the petition that render it insufficient;

(c) If the petition was submitted pursuant to NRS ~~205~~.095 or ~~205~~.205 , promptly send a copy of the certificate by registered or certified mail to the petitioners' committee;

(d) If the petition was submitted pursuant to NRS ~~205~~.140 , promptly send a copy of the certificate by registered or certified mail to the person who submitted the petition; and

(e) Retain the petition and the original certificate at the office of the county or city clerk.

2. The petition shall be deemed filed with the county or city clerk as of the date of the certificate showing the petition to be validly signed by the number of registered voters needed to certify the petition sufficient.

(Added to NRS by 2001, 2963)

NRS ~~225~~.280 **Handling of petition.** After the submission of the petition to the county or city clerk for verification pursuant to NRS ~~225~~.250 to ~~225~~.290 , inclusive, the petition must not be handled by any person other than an employee of the office of the county or city clerk until the county or city clerk has attached a certificate to the petition pursuant to NRS ~~225~~.270 .

(Added to NRS by 2001, 2964)

NRS ~~225~~.290 **County or city clerk must allow witness of determination and verification of signatures.** The county or city clerk shall allow the person who submitted the petition or a member of the petitioners' committee, if any, to witness:

1. The determination of the total number of signatures on the petition; and
2. The examination of the signatures on the petition for verification.

(Added to NRS by 2001, 2964)

Pertinent Sections of the
NEVADA ADMINISTRATIVE CODE

CHAPTER 295 - INITIATIVE AND REFERENDUM

295.020

Requirements for individual documents of petition

295.040

Disclosure of requirement for participation in constitutional convention

NAC 295.020 Requirements for individual documents of petition. (NRS 293.124, 293.247, 295.055)

1. A person who submits a petition that consists of more than one document to the county clerk for verification of the signatures shall sequentially number each page of each document in the petition, beginning with the number 1.

2. If a petition for an initiative or referendum consists of more than one document, each document must contain the full text of the proposed measure and:

(a) Include sequentially numbered spaces for:

(1) The name of each person who signs the petition.

(2) The signature of the person signing.

(3) The street address of the residence where the person signing actually resides, unless a street address has not been assigned. If a street address has not been assigned, the document may contain the mailing address of the person signing.

(4) The name of the county where the person who signs is a registered voter.

(5) The date of the signature.

(6) If the petition is a municipal initiative or referendum proposed pursuant to the provisions of NRS 295.195 to 295.220, inclusive, the name of the city in which the person who signs is registered to vote.

(b) Have attached to it, when filed:

(1) The affidavit required pursuant to section 3 of article 19 of the constitution of the State of Nevada; and

(2) An affidavit signed by the person who circulated the document in substantially the following form:

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 I believe them to be genuine signatures; and (6) that I believe each person who signed was at the time of signing a registered voter in the county of his residence.

Signature of circulator

Subscribed and sworn to or affirmed
before me this ____ day of _____.

Notary public or other person licensed
to administer an oath

3. A document may consist of more than one page. If a document consists of more than one page:

(a) Each page, including a blank signature page, must be numbered sequentially, beginning with the number 1 for each document;

(b) All the pages must be permanently attached together in numerical order; and

(c) The affidavits of the circulator required by NRS 295.095 or 295.205 must appear on the last pages of the document.

4. As used in this section, "petition" means a petition described in article 19 of the Nevada constitution or NRS 295.015 or 295.045.

(Added to NAC by Sec'y of State, eff. 7-18-88; A by R217-97, 5-26-98; R013-00, 4-4-2000; R183-01, 5-10-2002)

NAC 295.040 Disclosure of requirement for participation in constitutional convention. (NRS 293.124, 293.247) If passage of an initiative would require this state to participate in a constitutional convention called by the Congress of the United States, that fact must be stated on the first page of each document of the petition for the initiative in at least 12-point type when the petition is presented to registered voters for their signatures.

(Added to NAC by Sec'y of State by R217-97, eff. 5-26-98)

2008
NEVADA ELECTION CALENDAR – Initiative & Referendums
COMPILED BY ROSS MILLER, SECRETARY OF STATE

Nevada Revised
 Statutes (unless
 otherwise noted)

AUG. 1, 2007	<u>REFERENDUM PETITION</u> – (not earlier than August 1 st of the year before the election is to be held) First day a copy of a state referendum can be filed with the Secretary of State prior to circulation.	Nevada Constitution Art. 19, Sec. 1
SEPT. 1, 2007	<u>INITIATIVE PETITION TO AMEND THE NEVADA CONSTITUTION</u> - (not earlier than September 1 st of the year before the year in which the election is to be held) First day a copy of an initiative to amend the Nevada Constitution can be filed with the Secretary of State prior to circulation.	Nevada Constitution Art. 19, Sec. 2(4)
JAN. 1, 2008	<u>INITIATIVE PETITION PROPOSING A NEW STATE STATUTE OR TO AMEND AN EXISTING STATE STATUTE</u> - (not earlier than January 1 st of the year preceding the year in which a regular session of the legislature is held) First day a copy of an initiative petition proposing a new state statute or an amendment to an existing state statute can be filed with the Secretary of State prior to circulation.	Nevada Constitution Art. 19, Sec. 2(3)
MAY 20, 2008	<u>STATE REFERENDUM</u> – (not later than 3 rd Tuesday in May of an even numbered year) Last day to submit to County Clerk/Registrar for signature verification petition to have any statute or resolution enacted by the Legislature submitted to referendum vote of the people. All documents of the petition must be submitted at the same time.	295.056(4)
MAY 20, 2008	<u>INITIATIVE TO AMEND CONSTITUTION</u> – (not later than the 3 rd Tuesday in May of an even numbered year) Last day to submit to County Clerk/Registrar for signature verification, petition proposing an amendment to the constitution. All documents of the petition must be submitted at the same time.	295.056(3)
JUNE 27, 2008	<u>COUNTY REFERENDUM</u> – (not later than 130 days before next succeeding General Election) Last day to file a County referendum petition with the County Clerks for signature verification.	295.140(2)
JULY 7, 2008	<u>COUNTY CLERK/REGISTRAR TO FILE VERIFIED STATE REFERENDUM PETITION</u> – (not less than 120 days before the next succeeding general election) Last day County Clerk/Registrar shall file a verified state referendum petition with the Secretary of State.	295.045(2)

AUG. 6, 2008	<p><u>INITIATIVE PETITION AMENDING CONSTITUTION</u> – (90 days before General Election) Last day County Clerk/Registrar to file an initiative petition amending the Nevada Constitution with the Secretary of State after signature verification.</p>	<p>Nevada Constitution, Art. 19, Sec. 2(4)</p>
AUG. 15, 2008	<p><u>CHALLENGE OF MINOR POLITICAL PARTY</u> – (3rd Friday in August) Last day to file challenge against a minor political party's qualifications with appropriate filing officer.</p>	293.174(1)
SEPT. 25, 2008	<p><u>PREPARE ABSENTEE BALLOTS FOR RESIDENTS OUTSIDE THE STATE</u> – (not later than 40 days before General Election) County Clerks/Registrars to prepare and distribute absent ballots to residents outside the state no later than this date.</p>	293.309(2)(b)
SEPT. 30, 2008	<p><u>PUBLISH LIST OF REGISTERED VOTERS</u> – (not less than 2 weeks before the close of registration for the General Election) No later than this date, the County Clerk/Registrar may cause to be published in a newspaper an alphabetical listing of all registered voters, including the precinct of each voter OR a statement notifying the public that the County Clerk/Registrar will provide an alphabetical listing of registered voters free of charge to any person upon request.</p>	293.557(2)(b)
OCT. 6, 2008	<p><u>PUBLISH CONSTITUTIONAL AMENDMENTS AND STATEWIDE MEASURES</u> – (on or before the 1st Monday in October and 2 additional times at intervals of no less than 7 days) On or before this date, the County Clerk/Registrar shall cause to be published for the first time, in a newspaper of general circulation, the full text, condensation explanation, arguments, rebuttals, and fiscal notes of any constitutional amendment or measure. If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in the State.</p>	293.253(3)
<p>OCT. 4, 2008 through OCT. 18, 2008</p>	<p><u>VOTING SYSTEM PRE-LAT TEST REQUIRED BEFORE EARLY VOTING</u> – (not earlier than 2 weeks before and not later than 5 p.m. on the day before the 1st day of early voting) Period during which the County Clerk/Registrar must conduct the required Pre-Lat test for mechanical recording device or automatic tabulating equipment and programs.</p>	293B.150

OCT. 20, 2008

PUBLISHING CONSTITUTIONAL AMENDMENTS AND STATEWIDE MEASURES - (to be published in the county at intervals of not less than 7 days, the first publication to be on or before 1st Monday in October)

293.253(3)

On this date, County Clerk/Registrar shall cause to be published for the third time, in a newspaper of general circulation, the full text, condensation, explanation, arguments, rebuttals and fiscal notes of any constitutional amendment or measure. If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in the State.

NOV. 11, 2008

INITIATIVE PETITION TO PROPOSE A NEW STATUTE OR AMEND AN EXISTING ONE - (not later than the 2nd Tuesday in November of an even-numbered year)

295.056(2)

Last date to submit a statutory initiative petition to the County Clerk/Registrar for verification of signatures.

JAN. 3, 2009

FILING OF INITIATIVE PETITION TO PROPOSE NEW STATUTE OR AMEND EXISTING STATUTE - (not less than 30 days before a regular session of the Legislature)

Last day for County Clerk/Registrar to file an initiative petition with the Secretary of State after signature verification.

Nevada
Constitution
Art. 19, Sec. 2(3)