

TEXT OF PETITIONS WHICH QUALIFIED FOR THE 2004 GENERAL ELECTION BALLOT

Please Note: Questions 1, 2, 4, 5, and 6 proposed to amend Nevada's Constitution and if passed by the voters on November 2 must appear again on the 2006 November General Election Ballot. Question 3 proposes a statutory change. Matter in ***bolded italics*** is the language that would be added to the Constitution if the question passes.

QUESTION NO. 1. EDUCATION FIRST

Section 1. Section 6 of Article 11 of the Constitution of the State of Nevada is hereby amended to read as follows:

1. In addition to other means provided for the support and maintenance of said university and common schools, the legislature shall provide for their support and maintenance by direct legislative appropriation from the general fund, upon the presentation of budgets in the manner required by law. (NOTE: Only Sections 2-6 are new.)

2. During a regular session of the Legislature, before any other appropriation is enacted to fund a portion of the state budget for the next ensuing biennium, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium.

3. During a special session of the legislature that is held between the end of a regular session in which the Legislature has not enacted the appropriation or appropriations required by subsection 2 to fund education for the next ensuing biennium and the first day of that next ensuing biennium, before any other appropriation is enacted other than appropriations required to pay the cost of that special session, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium.

4. During a special session of the Legislature that is held in a biennium for which the Legislature has not enacted the appropriation or appropriation required by subsection 2 to fund education for the biennium in which the special session is being held, before any other appropriation is enacted other than appropriations required to pay the cost of that special session, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the population reasonably estimated for the biennium in which the special session is held.

5. Any appropriation of money enacted in violation of subsection 2, 3 or 4 is void.

6. As used in this section, "biennium" means a period of two fiscal years beginning on July 1 of an odd-numbered year and ending on June 30 of the next ensuing odd-numbered year.

QUESTION NO. 2. IMPROVE NEVADA PUBLIC SCHOOL FUNDING TO THE NATIONAL AVERAGE

Section 1. Section 2 of Article 11 of the Constitution of the State of Nevada is hereby amended to read as follow:

Sec.2 1. The legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months in every year, and any school district which shall allow instruction of a sectarian character therein may be deprived of its proportion of the interest of the public school fund during such neglect or infraction, and the legislature may pass such laws as will tend to secure a general attendance of the children in each school district upon said public schools.

2. The legislature shall support and maintain a system of public instruction which helps ensure that every child becomes a productive and responsible adult. In performing this obligation the legislature shall provide sufficiently for the financial support and maintenance of the public elementary and secondary schools. Commencing with the fiscal year beginning on July 1, 2012, the appropriations made by the legislature for this purpose, when combined with the projected revenue from all other federal, state and local sources, must be in such amounts as the legislature determines are sufficient to ensure in each fiscal year that the annual per-pupil expenditure of Nevada equals or exceeds the national average.

3. *In complying with the requirements of subsection 2, the legislature shall, as nearly as practicable in view of available information about projected revenue and enrollment, calculate the annual per-pupil expenditure of Nevada in the same manner as the National Center for Education Statistics calculates current expenditures per pupil in fall enrollment for each state.*

4. *Nothing in this section shall be deemed to require the legislature to make a supplemental appropriation in the interim between legislative sessions.*

5. *As used in this section:*

(a) *“Annual per-pupil expenditure for Nevada” means, for any fiscal year, current expenditures per pupil in fall enrollment for public elementary and secondary schools in Nevada, calculated in the manner provided in subsection 3*

(b) *“National average” means current expenditures per pupil in fall enrollment for public elementary and secondary school in the United States, as most recently determined by the National Center for Education Statistics.*

(c) *“National Center for Education Statistics” means the national Center for Education of the United States Department of Education or its successor agency.*

QUESTION 3 - KEEP OUR DOCTORS IN NEVADA

This initiative was circulated in 2002 for a statutory change. It was delivered to the 2003 regular session as IP 1 (Initiative Petition 1). As the legislature did not act on IP 1 it appears on this general election ballot. It is the only initiative question on the ballot which does not propose to amend the Constitution.

The text of this measure can be found at: <http://www.leg.state.nv.us/72nd/bills/IP/IP1.pdf>

QUESTION 4 - THE INSURANCE RATE REDUCTION AND REFORM ACT

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. Title. This act shall be known and may be cited as “The Insurance Rate Reduction and Reform Act.”

Section 2. Findings and declarations.

1. The People of the State of Nevada find and declare that:

(a) The cost of insurance continues to increase and places an unfair burden on the People and families of Nevada.

(b) It is the public policy of the State of Nevada that drivers of motor vehicles bear legal responsibility for their driving behavior. However, the cost of automobile liability insurance that motorists are required by law to buy is often excessive and unfair.

(c) Instability in the malpractice insurance marketplace has imposed burdens upon doctors and other health care providers and diminished access to safe health care.

(d) The existing laws provide the Legislature and the Governor with certain authority over the industry of insurance. However, the existing laws are inadequate to protect consumers and thereby allow insurance companies to charge excessive, unjustified and arbitrary rates.

2. The People of the State of Nevada further find and declare that it is the intent of this act to address the concerns set forth in subsection 1 by reforming the insurance industry so that:

(a) The premiums charged by an insurer for motor vehicles, homeowner, medical malpractice and other casualty insurance shall be rolled back to the amount that was charged on December 1, 2005, and reduced at least an additional 20 percent;

(b) In addition to reducing the premiums charged for casualty insurance, insurers shall be required to justify future increases in rates to ensure that those rates are maintained at fair levels;

(c) Insurers shall be subject to all laws that are generally applicable to other businesses in the State of Nevada, including consumer protection and antitrust laws;

(d) Motor vehicle insurers shall provide an additional 20 percent discount for good drivers;

(e) Limitations placed on the compensation provided by juries to victims of medical negligence shall be void unless insurance companies lower medical malpractice premiums as a result of such limitations; and

(f) A fee shall be charged to insurers to cover the cost of administering these reforms so that these reforms will cost taxpayers nothing.

Sec. 3. The Constitution of the State of Nevada is hereby amended by adding thereto a new article to be designated article 20, to read as follows:

Sec. 1. Definition of casualty insurance.

As used in this article, unless the context otherwise requires, "casualty insurance" means insurance against any kind of loss, damage or liability, except that the term does not include life, health, workers' compensation or disability insurance.

Sec. 2. Insurance premium rollbacks.

1. An insurer that issues or renews any policy of casualty insurance in this state on or after December 1, 2006, and before December 1, 2007, shall reduce the rates charged to that the premium for each such policy of casualty insurance is reduced to an amount equal to at least 20 percent less than the premium that was in effect on December 1, 2005.

2. An affiliate of an insurer that is established on or after December 1, 2006, and before December 1, 2007, is subject to the provisions of this section and shall set the rates charged so that premiums for policies of casualty insurance are reduced to an amount equal to at least 20 percent less than the premiums that were in effect on December 1, 2005, for an insurer of similarly situated risks.

3. If, on or after December 1, 2006, and before December 1, 2007, a person applies to an insurer for the first time for a policy of casualty insurance, the insurer shall set the rates charged so that the premium for such insurance is reduced to an amount equal to at least 20 percent less than the premiums that were in effect on December 1, 2005, for similarly situated risks.

4. An insurer that is first authorized to conduct business in this State on or after December 1, 2006, and before December 1, 2007, is subject to the provision of this section and the Insurance Commissioner shall ensure that the rate set by the insurer provide a premium that is reduced to the level required by this section.

5. During the period beginning December 1, 2006, and ending December 1, 2007, the premiums set pursuant to subsection 1, 2, 3 or 4, as applicable, must not be increased.

6. During the period beginning December 1, 2006, and ending December 1, 2007:

(a) An insurer may apply to the Insurance Commissioner to increase the rates set pursuant to subsection 1, 2, 3 or 4, as applicable, if those rates fail to provide a fair and reasonable return to the insurer or are otherwise confiscatory.

(b) An application submitted by an insurer pursuant to paragraph (a):

(1) Must contain a detailed analysis of the reasons the rates fail to provide a fair and reasonable return to the insurer or are otherwise confiscatory, including, without limitation, relevant facts and provision of law; and

(2) Must contain proposed rates which the insurer believes are the minimum rates that provide a fair and reasonable return to the insurer and are otherwise not confiscatory; and

(c) After a hearing, the Insurance Commissioner may approve the application of an insurer pursuant to this subsection, if the Insurance Commissioner finds that the rates fail to provide a fair and reasonable return to the insurer or are otherwise confiscatory. Upon granting such approval, the Insurance Commissioner shall determine the minimum rates that provide a fair and reasonable return to the insurer and are otherwise not confiscatory.

(d) An insurer who submits an application pursuant to this subsection may charge the rates proposed in the application until the Insurance Commissioner approves or disapproves the application. If the Insurance Commissioner:

(1) Approves the application, the insurer shall immediately begin to charge the rates determined by the Insurance Commissioner pursuant to paragraph (c) and refund any excess portion of previously paid premiums, with interest.

(2) *Disapproves the application, the insurer shall immediately begin to charge the rates set pursuant to subsection 1, 2, 3 or 4, as applicable and refund the excess portion of the previously paid premiums, with interest.*

(e) *If an insurer submits an application pursuant to this subsection, the insurer may not submit another application pursuant to this subsection regarding the same rate or rates sooner than 20 days after the date of the decision of approval or disapproval with regard to the first application.*

7. *An insurer that has issued a policy of casualty insurance that is in effect on December 1, 2006, shall not cancel or refuse to renew the policy to avoid the reduction in rates required by this section.*

Sec. 3. 20% Good Driver Discount.

1. *Drivers of motor vehicles shall bear legal responsibility for their driving conduct.*

2. *An insurer shall provide for a reduction of the premium charged to an insured in the amount of 20 percent for a motor vehicle insurance policy if the insured:*

(a) *Has been licensed to operate a motor vehicle in any state or the District of Columbia during the immediately preceding 3 years;*

(b) *Has not accumulated more than one conviction for a moving traffic violation during the immediately preceding 3 years;*

(c) *Has not been involved in an accident involving a motor vehicle that resulted in bodily injury or death for which the insured was at fault during the immediately preceding 3 years; and*

(d) *Has not been convicted of or entered a plea to a moving traffic violation or an offense involving the operation of a motor vehicle while under the influence of intoxicating liquor or a controlled substance in any state or the District of Columbia during the immediately preceding 7 years.*

3. *An insurer authorized to issue a motor vehicle insurance policy in the State of Nevada shall not refuse to issue or renew a motor vehicle insurance policy to any person who qualifies for the reduction in premiums provided by this section.*

4. *An insurer shall not consider if a person previously purchased a motor vehicle insurance policy in determining whether or not the person is eligible for the reduction in premiums provided by this section, or for determining the premium to be charged to, or the insurability of, the person.*

5. *As used in this section, "motor vehicle insurance policy" means a policy of insurance against liability arising out of the ownership, maintenance or use of a motor vehicle, delivered or issued for delivery in this State.*

Sec. 4. Insurers subject to laws that apply generally to other businesses in the State of Nevada. *An insurer that conducts business in the State of Nevada shall be subject to all laws that apply to other businesses generally, including, without limitation, laws governing consumer protection and antitrust. This provision does not apply to laws that are specifically intended to affect only a particular class of type of business unrelated to insurance.*

Sec. 5. Appointment of Insurance Commissioner to oversee the insurance industry; fee to cover expenses related to this article; hearings; additional penalties for violations of article.

1. *The Legislature shall provide by law for the regulation of the industry of insurance in the State of Nevada, including, without limitation, providing for the appointment by the Governor of the Insurance Commissioner, who shall be responsible for the oversight and regulation of the industry of insurance.*

2. *The Insurance Commissioner shall impose a fee upon each insurer that conducts business in this State to cover all expenses related to carrying out the provisions of this article.*

3. Any hearing or other regulatory action taken by the Insurance Commissioner is subject to all laws concerning administrative procedures generally.

4. If an insurer violates any provision of this article, the Insurance Commissioner may, in addition to any other action, suspend or revoke, in whole or in part, the authority of the insurer to conduct business in the State of Nevada.

Sec. 6. Appointment of persons to represent the interests of the public related to insurance.

1. The Legislature shall provide by law for the appointment of one or more persons to represent the interests of the public in this State related to insurance.

2. Each time that an insurer submits a rate for policies of casualty insurance for approval to the Insurance Commissioner, each person appointed pursuant to this section must receive notice. Each person appointed pursuant to this section shall be provided the opportunity to participate in any hearings concerning the rate submitted for approval and shall have the same authority to review the books and records of the insurer that submitted the rate as the Insurance Commissioner.

Sec. 7 Approval of rates for casualty insurance required.

1. Beginning on December 1, 2007, each insurer that conducts business in the State of Nevada shall submit for approval to the Insurance Commissioner each proposed rate to be charged for casualty insurance. An insurer shall not charge any rate for casualty insurance until the Insurance Commissioner has approved the proposed rate.

2. A proposed rate submitted pursuant to subsection 1 must not be approved if it is excessive, inadequate, unfairly discriminatory or otherwise in violation of law.

3. The Insurance Commissioner shall adopt regulations setting forth the procedures for reviewing application for the approval of proposed rates for casualty insurance. Such regulations shall:

(a) Require the insurer to prove that the proposed rates are justified and comply with all requirements imposed by law;

(b) Prohibit unreasonable or imprudently incurred expenses and reserves;

(c) Provide an insurer with an opportunity to earn a fair return on its capital used and useful for the provision of insurance in this state; and

(d) Specify such other factors as are necessary to establish fair rates, except that no consideration may be given to the degree of competition in the industry of insurance in this State and the rates must reflect mathematically the investment income of the insurer.

4. The Insurance commissioner shall provide public notice when an insurer submits an application for approval of a proposed rate for casualty insurance. The Insurance Commissioner shall hold a hearing to determine whether or not to approve the proposed rate if:

(a) A member of the public or his representative requests a hearing not later than 45 days after the notice is provided, unless the Insurance Commissioner provides written findings to support denying such a hearing;

(b) The Insurance commissioner determines that it is in the best interest of the public to hold a hearing; or

(c) The proposed rate reflects a change in the rate which is greater than 7 percent for a personal line of casualty insurance or greater than 15 percent for a commercial line of casualty insurance.

5. The Insurance Commissioner shall make all information provided by an insurer concerning premiums for casualty insurance available for public inspection, except to the extent prohibited by federal law or the federal constitution.

Sec. 8. Medical malpractice insurance – requirement that limitations on compensation reduce claims and premiums.

1. Any statute that is in effect on December 1, 2006, which limits the amount of the recovery that a jury may provide to a person who has been injured by the wrongful or negligent conduct of a doctor, hospital or other health care provider, shall be void unless the Insurance Commissioner determines, not later than February 1, 2007, upon substantial evidence provided at hearings, that any such limitation has reduced:

(a) The average amount paid annually by insurers for claims of a breach of duty by providers of health care by at least ten percent since the limitation became effective; and

(b) The premiums charged to providers of health care for insurance covering the professional liability of providers of health care by an annual average of ten percent since the limitation became effective.

2. The provisions of subsection 1 do not apply to:

(a) A limitation on liability of a governmental entity or a person acting in the capacity of an officer or employee of a governmental entity.

(b) A limitation on the liability of a provider of health care who provides services to a person free of charge.

Sec. 9. Liberal construction; severability.

1. This article shall be construed liberally and applied in a manner that fully promotes the purposes for the enactment of this article.

2. If any provision of this article or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect any other provision or application of this article which can be given effect without the invalid provision or application, and to this end the provision of this article are severable.

QUESTION 5 - STOP FRIVOLOUS LAWSUITS AND PROTECT YOUR LEGAL RIGHTS ACT

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. Title

This measure shall be known and may be cited as “The Stop Frivolous Lawsuits and Protect Your Legal Rights Act.”

Section 2. Findings and declarations.

The People of the State of Nevada Find and declare that:

(a) Preservation of an individual’s legal rights is a vital part of our democratic society.

(b) Cost effective access to the judicial system will allow all Nevadans the right to recovery for all harm and losses as a result of the negligent or wrongful conduct of another person.(c) Preventing vexatious and frivolous litigation will preserve the rights of individuals to utilize the judicial system to receive compensation and will make the system work better.

(d) This Act will guarantee that a person’s right to recovery for all harm and losses as a result of the negligent or wrongful conduct of another person will not be limited in any way.

(e) This Act will guarantee that there will be no interference with a person’s right to a fair trial and any judgment that is awarded by a jury.

(f) The Act will guarantee a person’s right to hire an attorney and determine the manner and amount of compensation that the attorney should receive for protecting the individual’s legal rights.

Section 3. Article 6 of the Constitution of the State of Nevada is hereby amended by adding thereto a new section to be designated section 14A, to read as follows:

Sec. 14A. 1. Whenever the evidence shows that a lawyer has willfully encouraged, initiated or pursued litigation or defended litigation in a manner which is vexatious and frivolous, that lawyer shall be held personally responsible for the attorney’s fees, court costs and expenses of the aggrieved party. The personal responsibility imposed by the subsection is in addition to, and not in lieu of, any disciplinary action or other sanction that may be imposed by a court as a result of the same litigation. As used in this subsection, “vexatious and frivolous” means filing or defending a lawsuit solely to harass the opposing party or to seek economic gain unrelated to the merits of the lawsuit.

2. All person are entitled to complete recovery for all harm and losses caused to them as a result of the negligent or wrongful conduct of another person, and no law shall be enacted which limits a person's right to recovery for all harm and losses caused to them as a result of the negligent or wrongful conduct of another person. The provisions of the subsection do not:

(a) Amend, nullify or change any limitation on damages which exist in statute on January 1, 2004, except that, any changes to such a limitation enacted after January 1, 2004, but before December 1, 2006, are void unless the changes increase the dollar amount in the limitation on damages or repeal the limitation on damages.

(b) Prohibit the Legislature from:

(1) Amending any limitation on damages which exists in statute on January 1, 2004, to increase the dollar amount in the limitation on damages; or

(2) Repealing any limitation on damages which exists in statute on January 1, 2004.

(c) Apply to a statute which limits the liability of a governmental entity or a person acting in the capacity of an officer or employee of a governmental entity.

3. There shall be no interference with a person's right to a fair trial and the judgment that is awarded by a jury.

4. There shall be no interference with the right of a person to employ an attorney for representation in court and to determine the manner and amount of compensation to pay the attorney for providing such representation for any and all matters including representation at a specific trial

5. If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect any other provision or application of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

QUESTION 6 - RAISE THE MINIMUM WAGE FOR WORKING NEVADANS

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. Title

This measure shall be known and may be cited as "The Raise the Minimum Wage for Working Nevadans Act."

Section 2. Findings and Purpose.

The People of the State of Nevada, hereby make the following findings and declare their purpose in enacting this Act is as follows:

1. No full-time worker should live in poverty in our state.
2. Raising the minimum wage is the best way to fight poverty. By raising the minimum wage from \$5.15 an hour to \$6.15 an hour, a full-time worker will earn an additional \$2,000 in wages. That's enough to make a big difference in the lives of low-income workers to move many families out of poverty.
3. For low-wage workers, a disproportionate amount of their income goes toward cost of living expenses. Living expenses such as housing, healthcare, and food have far outpaced wage levels for Nevada's working families.
4. In our state, 6 out of 10 minimum wage earners are women. Moreover 25 percent of all minimum wage earners are single mothers, many of whom work full-time.
5. At \$5.15 an hour, minimum wage workers in Nevada, make less money than they would on welfare. When people choose work over welfare, they become productive members of society and the burden on Nevada taxpayers is reduced.
6. Raising the minimum wage from \$5.15 an hour to \$6.15 an hour affirms Nevadan's beliefs that we value work, especially the difficult jobs performed by hotel maids, childcare workers, and nursing home employees. We need to make sure the workers who are the backbone of our economy receive fair paychecks that allow them and their families to live above the poverty line.

Section 3. Article 15 of the Constitution of the State of Nevada is hereby amended. By adding thereto a new section as follows:

Sec. 16. Payment of minimum compensation to employees.

A. Each employer shall pay a wage to each employee of not less than the hourly rates set forth in this section. The rate shall be five dollars and fifteen cents (\$5.15) per hour worked if the employer provides health benefits as described herein, or six dollars and fifteen cents (\$6.15) per hour if the employer does not provide such benefits. Offering health benefits within the meaning of this section shall consist of making health insurance available to the employee for the employee and employee's dependents at a total cost to the employee for premiums of not more than 10 percent of the employee's gross taxable income from the employer. These rates of wages shall be adjusted by the amount of increases in the federal minimum wage over \$5.15 per hour, or, if greater, by the cumulative increase in the cost of living. The cost of living increase shall be measured by the percentage increase as of December 31 in any year over the level as of December 31, 2004 of the Consumer Price Index (All Urban Consumers, U.S. City Average) as published by the Bureau of Labor Statistics, U.S. Department of Labor or the successor index or federal agency. No CPI adjustment for any one-year period may be greater than 3%. The Governor or the State agency designated by the Governor shall publish a bulletin, by April 1 of each year announcing the adjusted rates, which shall take effect the following July 1. Such bulletin will be made available to all employers and to any other person who has filed with the Governor or the designated agency a request to receive such notice but lack of notice shall not excuse noncompliance with this section. An employer shall provide written notification of the rate adjustments to each of its employees and make the necessary payroll adjustments by July 1 following the publication of the bulletin. Tip or gratuities received by employees shall not be credited as being any part of or offset against the wage rates required by this section.

B. The provisions of this section may not be waived by agreement between an individual employee and an employer. All of the provisions of this section, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted, as a waiver of all or any part of the provisions of this section. An employer shall not discharge, reduce the compensation of or otherwise discriminate against any employee for using any civil remedies to enforce this section or otherwise asserting his or her right under this section. An employee claiming violation of this section may bring an action against his or her employer in the courts of this State to enforce the provisions of this section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this section, including but not limited to back pay, damages, reinstatement or injunctive relief. An employee who prevails in any action to enforce this section shall be awarded his or her reasonable attorney's fees and costs.

C. As used in this section, "employee" means any person who is employed by an employer as defined herein but does not include an employee who is under eighteen (18) years of age, employed by a nonprofit organization for after school or summer employment or as a trainee for a period not longer than (90) days. "Employer" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts of employment.

D. If any provision of this section is declared illegal, invalid or inoperative, in whole or in part, by the final decision of any court of competent jurisdiction, the remaining provisions and all portions not declared illegal, invalid or inoperative shall remain in full force or effect, and no such determination shall invalidate the remaining sections or portions of the sections of this section.