

Ballot Question No. 1

*Senate Joint Resolution No. 8 of the 80th Session
(File No. 44, Statutes of Nevada 2019)*

Proposing to Amend the Nevada Constitution
to Guarantee Equal Rights

EMERGENCY REQUEST of Senate Majority Leader

Senate Joint Resolution No. 8—Senators Cannizzaro, Spearman, Ratti, Woodhouse, Parks; Brooks, Cancela, Denis, Dondero Loop, D. Harris, Ohrenschall and Scheible

FILE NUMBER.....

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to guarantee equal rights.

Legislative Counsel's Digest:

Existing law provides numerous prohibitions against discrimination on the basis of sex and other characteristics. (See, for example, NRS 62B.510, 217.420, 274.140, 281.370, 284.150, 288.270, 319.060, 338.125, 396.530, 463.151, 463.4076, 610.020, 610.150 and 613.330) This resolution proposes to amend the Nevada Constitution by adding a guarantee that equality of rights under the law shall not be denied or abridged by this State or any of its political subdivisions on account of race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry or national origin.

If this resolution is passed by the 2019 Legislature, it must also be passed by the next Legislature and then approved and ratified by the voters in an election before the proposed amendment to the Nevada Constitution becomes effective.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

WHEREAS, The Fourteenth Amendment to the United States Constitution prohibits any state from denying to any person within its jurisdiction the equal protection of the laws; and

WHEREAS, The Nevada Supreme Court has interpreted the requirement of Section 21 of Article 4 of the Nevada Constitution that “all laws shall be general and of uniform operation throughout the State” to be coextensive with the guarantees of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution; and

WHEREAS, The generality of the language used in the Fourteenth Amendment to the United States Constitution and Section 21 of Article 4 of the Nevada Constitution has allowed the Judicial branches of the Federal and State governments to establish a hierarchy within the persons entitled to the protection of the laws; and

WHEREAS, The United States Supreme Court has recognized that each individual state may adopt its own constitution and provide its citizens more expansive individual liberties than those provided by the Federal Constitution; and



WHEREAS, The Legislature of this State wishes to strictly guarantee the equality of rights under law to certain persons within its jurisdiction; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That a new section, designated Section 24, be added to Article 1 of the Nevada Constitution to read as follows:

Sec. 24. Equality of rights under the law shall not be denied or abridged by this State or any of its political subdivisions on account of race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry or national origin.



Ballot Question No. 1

Legislative Counsel Bureau's **Initial Draft** of Ballot Materials
for *Senate Joint Resolution No. 8 of the 80th Session*
Submitted to the Public for Comment During the
Period of May 16 to May 30, 2022

QUESTION NO. 1

Amendment to the *Nevada Constitution*

Senate Joint Resolution No. 8 of the 80th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended by adding a specific guarantee that equality of rights under the law shall not be denied or abridged by this State or any of its cities, counties, or other political subdivisions on account of race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, or national origin?

Yes ☐ No ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure would add new language to the *Nevada Constitution* specifically guaranteeing that equality of rights under the law shall not be denied or abridged by the State or any of its cities, counties, or other political subdivisions based on race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, or national origin.

A “Yes” vote would amend the *Nevada Constitution* to add new language specifically guaranteeing that equality of rights under the law shall not be denied or abridged by the State or any of its cities, counties, or other political subdivisions based on race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, or national origin.

A “No” vote would not amend the *Nevada Constitution* to add new language specifically guaranteeing that equality of rights under the law shall not be denied or abridged by the State or any of its cities, counties, or other political subdivisions based on race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry or national origin.

DIGEST—Existing federal and state constitutional and statutory provisions prohibit discrimination based on race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, or national origin in various manners. For example, the First Amendment to the *United States Constitution* prohibits discrimination based on religion. The Equal Protection Clause of the Fourteenth Amendment to the *U.S. Constitution* also prohibits states and local governments from denying “to any person within its jurisdiction the equal protection of the law.” Equal protection requirements apply to the federal government through the Due Process Clause of the Fifth Amendment to the *U.S. Constitution*. The U.S. Supreme Court has interpreted the Equal Protection Clause as not requiring the government to treat every person the same, but instead as

requiring the government to treat persons who are in similar conditions or circumstances, or “similarly situated,” in the same way. (*City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985))

For the purposes of the federal Equal Protection Clause, the U.S. Supreme Court has developed a three-tiered test for determining whether a law that imposes a burden upon or provides a benefit to one class of persons to the exclusion of others is valid. Depending on the classification involved, the U.S. Supreme Court applies tests known as strict scrutiny, intermediate scrutiny, or rational basis scrutiny to analyze the government’s justification for the classification. (*City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439-41 (1985)) The U.S. Supreme Court applies the strict scrutiny test to laws that classify persons by race, national origin, religion, or alienage or that infringe upon certain fundamental rights. The strict scrutiny test requires the government to prove that the classification is narrowly tailored to serve a compelling government interest. (*Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007)) The U.S. Supreme Court applies the intermediate scrutiny test to laws that classify persons by gender or their status as having been born out of wedlock. The intermediate scrutiny test requires the government to prove that the classification has a substantial relationship to an important government interest. (*United States v. Virginia*, 518 U.S. 515, 532-33 (1996)) For all other classifications, the U.S. Supreme Court typically applies scrutiny under a rational basis test which only requires the government to demonstrate that the classification is rationally related to a legitimate government interest. (*City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985))

Although not certified as part of the *U.S. Constitution*, a proposed amendment is currently pending to the *U.S. Constitution*, which states that “[e]quality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.” This federal Equal Rights Amendment was passed by a two-thirds majority of Congress in 1973 and ratified by three-fourths of the states in 2020. However, the National Archivist has not yet certified the federal Equal Rights Amendment as part of the *U.S. Constitution* pursuant to 1 U.S.C. § 106b as a result of several legal issues relating to its ratification process, including the expiration of ratification deadlines set by Congress and subsequent rescission of ratification by five states. Although Nevada voters rejected ratification of the federal Equal Rights Amendment in an advisory question at the 1978 General Election, the Nevada Legislature ratified the Amendment in 2017. (Senate Joint Resolution No. 2, File No. 13, 79th Session)

Existing federal statutes also prohibit discrimination based on the classifications enumerated in this ballot measure in various manners. For example, the Religious Freedom Restoration Act of 1993 prohibits the federal government from substantially burdening the exercise of religion. (42 U.S.C. §§ 2000bb et seq.) With respect to employment, Title VII of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000e et seq.), the Equal Pay Act of 1963 (29 U.S.C. § 206(d)), the Age Discrimination in Employment Act of 1967 (29 U.S.C. §§ 621-634), section 501 of the Rehabilitation Act of 1973 (29 U.S.C. § 791) and Titles I and V of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.) prohibit discrimination in employment based on race, color, religion, sex (including sexual orientation, gender identity, and pregnancy), age (40 years or older), disability, ancestry, or national origin. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.) prohibits discrimination on the basis of sex in educational programs and activities that receive federal funding. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§

3601-3609), known as the Fair Housing Act, prohibits housing discrimination based on race, color, national origin, religion, sex (including gender, gender identity, sexual orientation, and sexual harassment), familial status, or disability. Title II of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000a et seq.) prohibits discrimination on the basis of race, color, religion, or national origin in places of public accommodations. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) prohibits discrimination on the basis of race, color, or national origin in programs or activities that receive federal funding. These laws are a nonexhaustive listing of the federal laws that prohibit discrimination based on certain classifications.

The *Nevada Constitution* also prohibits discrimination based on the classifications enumerated in this ballot measure in various manners. For example, Section 4 of Article 1 of the *Nevada Constitution* guarantees the free exercise of religion. In addition, the Nevada Supreme Court has interpreted the requirement in Section 4 of Article 21 of the *Nevada Constitution* that “all laws shall be general and of uniform application throughout the State” to be coextensive with the guarantees of the Equal Protection Clause of the Fourteenth Amendment to the *U.S. Constitution*. (*Laakonen v. District Court*, 91 Nev. 506, 508 (1975)) Furthermore, the U.S. Supreme Court has held that states are free to provide additional constitutional protections beyond those provided by the *U.S. Constitution*. (*California v. Ramos*, 463 U.S. 992, 1014 (1983))

Existing Nevada statutory law also prohibits discrimination based on the classifications enumerated in this ballot measure in various manners. For example, these prohibitions apply to juvenile rights, eligibility for certain grants, housing assistance, college admission standards, gaming regulations, employment practices, eligibility for apprenticeships, and public accommodations. (See, for example, *Nevada Revised Statutes* 62B.510, 217.420, 274.140, 281.370, 284.150, 288.270, 319.060, 338.125, 396.530, 463.151, 463.4076, 610.020, 610.150, 613.330 and 651.070.) These laws are a nonexhaustive listing of Nevada statutory laws that prohibit discrimination based on certain classifications.

This ballot measure proposes to amend the *Nevada Constitution* by adding a specific guarantee that equality of rights under the law shall not be denied or abridged by this State or any of its cities, counties, or other political subdivisions based on race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, or national origin.

ARGUMENTS FOR PASSAGE

Equality is a cornerstone of our democracy, but not everyone enjoys full equality. Historically, certain groups have been discriminated against because of their characteristics. One of the most effective ways to help ensure equality is to specifically include protections from discrimination in the *Nevada Constitution*, making them far more difficult to repeal, undermine, or overturn based on the political mood of the day. Approving Question 1 will establish a strong commitment to equality for everyone.

Although some protection against discrimination exists in federal and state law, there are gaps in the existing legal patchwork that have resulted in unavailable or inadequate protection for certain classes of people. This ballot measure provides comprehensive state constitutional guarantees of

equal treatment under the law for the classifications of race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, and national origin. It is essential to approve Question 1 because it fills the gaps by providing broader protections than those that currently exist in federal and state law.

Including these protections against discrimination in the *Nevada Constitution* will allow courts in Nevada to apply a heightened level of scrutiny to laws involving classifications, which will require the government to provide more substantial justification for such classifications. With these specific protections in the *Nevada Constitution*, courts in Nevada can develop standards for analyzing discrimination that reflect the unique text and history of Nevada's equal rights amendment.

Do not be misled by opponents' exaggerated and incorrect arguments about Question 1. They argue that this ballot measure will protect abortion rights, erode and destroy women's sports by allowing male and transgender athletes to compete unfairly against women and girls, and endanger our students' safety in school facilities such as restrooms and locker rooms. First, Nevada law already guarantees the right to an abortion and passage of this measure will not change this right. Second, the passage of Question 1 will not remove the State's ability to ensure competitive balance in school sports. Finally, it will not prevent schools from having separate facilities for boys and girls.

Everyone deserves to be treated equally under the law. Vote "Yes" on Question 1.

ARGUMENTS AGAINST PASSAGE

Question 1 is legally redundant and unnecessary. There is no need to amend the *Nevada Constitution* to specifically provide equality of rights under the law when federal and state law already prohibit discrimination on the basis of sex and certain other classifications. Further, when a person has been discriminated against, that person has existing legal remedies. Therefore, approval of Question 1 is not necessary.

In 1978, Nevadans overwhelmingly voted against the proposed Equal Rights Amendment to the *U.S. Constitution*, which was limited to protecting against discrimination on account of sex. If passed, Question 1 would dramatically expand the equal rights protected specifically in the *Nevada Constitution* beyond sex to include a total of ten classifications. No other state has a comparable constitutional provision protecting equal rights.

Enshrining broad equal rights language into the *Nevada Constitution* will make it difficult to fix its inevitable unintended consequences. Approval of Question 1 will result in a flood of litigation, clogging our court system because of its vague and expansive language. Further, because Question 1 cements this language into the *Nevada Constitution*, it will require another lengthy constitutional amendment process to undo its negative effects.

Proponents are trying to hide the true purpose of this ballot measure. Approving Question 1 will protect abortion rights, negatively affect women's sports, and endanger our students' safety. First,

the highest courts in some states have used their equal rights constitutional provisions to mandate taxpayer funding of medically necessary abortions through Medicaid. Additionally, if the federal courts overturn the protection for abortion rights under the *U.S. Constitution*, the equal rights guarantees contained in this ballot measure could be used as grounds to protect abortion rights in Nevada. Second, this ballot measure will erode and destroy women's sports by allowing biological male and transgender athletes to compete unfairly against women and girls. Finally, this ballot measure will endanger our students' safety by allowing separate restrooms and locker rooms for boys and girls to be eliminated.

This ballot measure is unnecessary and misguided. Vote "No" on Question 1.

FISCAL NOTE

Financial Impact—Cannot be Determined

If approved, Question 1 would amend the Nevada Constitution to specify that equality of rights under the law shall not be denied or abridged by this State or any of its cities, counties, or other political subdivisions on account of race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, or national origin. It is not anticipated that passage of this ballot measure would result in immediate increases in expenditures for the State or local governments. However, it is not possible to predict whether the future application of Question 1 will require additional fiscal resources by the State or local governments. Therefore, any potential financial impacts on the State or local governments relating to the application of Question 1 cannot be determined with any reasonable degree of certainty.

Ballot Question No. 1

Public Comments Received by the LCB During
the Period of May 16 to May 30, 2022, Regarding
the LCB's **Initial Draft** of Ballot Materials for
Senate Joint Resolution No. 8 of the 80th Session

Comment form submission from Virginia Starrett

Comments on draft language of Assembly Joint Resolution 10

Comments on draft language of Senate Joint Resolution 8

I am a firm no on SJR8. This Joint Resolution does not support women's rights; it tramples on them. In a time when a nominee to the SCOTUS cannot define what a woman is, any legislation pertaining to "women" is flawed beyond repair to begin with. Moreover, good people need to make sure "women" aren't erased from existence or devalued by using laws to undermine their unique biology. Additional objections to this law are based on the deliberate attempt its proponents evidently have made to hide its pro-abortion applications as well as its outcome of requiring all taxpayers to pay for abortions without regard to the taxpayers' moral or religious beliefs that abortion is the killing of a child. The Resolution is shameful in its faux representations that it is pro-woman when in fact it smacks of being in the category of a patriarchal dream come true in subjugating women as slaves to the wishes of arrogant men who see women as mere sex objects to provide them comfort and pleasure.

Contact Information

Address:

City: Gardnerville

State: Nevada

Zip code: 89460

Email:

Comment form submission from Patricia Cabrera

Comments on draft language of Assembly Joint Resolution 10

I did not have issues with what you drafted.

Comments on draft language of Senate Joint Resolution 8

I did not have issues with what you drafted.

Contact Information

Address:

City: Henderson

State: NV

Zip code: 89012

Email:

Comment form submission from Jeff Doucet

Comments on draft language of Assembly Joint Resolution 10

I suggest removing the language allowing the Legislature to establish a minimum wage that is greater than the hourly rate set forth in the Constitution. A constitutional change should be proposed to the voters or subject to three quarters or two thirds majority vote to negate the fluctuation of current popular opinion and instead ground in established constitutional authority.

The remaining language is sufficient to adapt minimum wage to federal law for changes, which should remain rare.

Additional thoughts, minimum wage is an entry or tips subsidized wage. As Nevada is a tipping economy, the increase in minimum wage creates barriers to entry and reduction in employment (employers can have less staff at the increased wage). Minimum wage is not, and should not be, a living wage but an opportunity to enter the workforce and gain experience. The individual should increase skillsets, work ethic, experience, to earn a wage higher than minimum. Too high of a minimum wage removes the incentives for economic and employment growth – negatively affecting the individual and the localized economy.

Comments on draft language of Senate Joint Resolution 8

I suggest removing the language on gender identity or expression. The notion that gender identity or expression is real and not tied to chromosomal sex is a political point and should not be established in statute. Sex, with the rare exception in chromosomal or physical development, is inherent biological fact (XX vs XY Chromosomes), even in the rare cases of physical developmental issues. Gender expression or identify is a mental condition, gender dysmorphia and should be address as such, not embraced or encourage. The encouragement of gender expression is detrimental to personhood and mental health. A biological male will never be a biological female even with hormone treatment and genital mutilations.

Likewise, a biological female can never be a male despite how they identify and expect rational persons to confirm to this mania. In addition, extreme gender expression, most often for a political point or a heel type personality trait, is detrimental to employment and business reputation. There needs to be logical business reputation protections not frivolously branded in discrimination (i.e. gender identity and expression).

Additional thoughts, age discrimination is listed in this statute. We do not list age identification or expression as a potential discrimination protected class. Freedom of Religious is established in the First amendment in the US Constitution. It is a highly established freedom that should not be overridden but current political whims. These deeply held religious views, are integral to the US Republic since its founding. The founding morality is not arbitrary and should never be treated as relative. With respect to sexual orientation, this is not on the same level as race, color, creed, national origin disability, age, etc protected classes. Despite the so called popular opinion, sexual orientation is a choice. Sexual Attractions do not define the individual, and human sexuality is very malleable. Sexual Attraction has been polarized and politicized in to common phrases that love is love. However, sex is not necessarily love. People make choices and are accountable to the repercussion of these choices. As a protected class, this is not a standard that should be established.

Points to consider: Is pornography addiction a protected class or sexual preference (animation, cartoons, science fantasy, or other extreme level of attraction)? Is sexual attraction to children, animals, inanimate objects a protective class or sexual preference? Is a lustful nature a protective class or sexual preference? We all make choices and these choices define and solidify who we are as individuals.

Closing points: In each of us a battle is raging. The battle is represented by the desire to do good and be good and the desire to be evil and do evil. This can be visualized by two wolves. One wolf represents, benevolence, kindness, love, purity, selflessness, compassion, empathy, support, truth and caring. The other wolf represents evil, selfishness, lies, violence, anger, hatred, inhumanity, jealousy, etc (all the negative and taking/ draining emotions). They are waging a constant battle inside each person as they strive to identify who they are and their place in the world. Which one will win – the one you feed... (which sexual identity will win, the one you feed).

Contact Information

Address:

City: Las Vegas

State: Nevada

Zip code: 89108

Email:

Comment form submission from Kerry Durmick

Comments on draft language of Assembly Joint Resolution 10

Comments on draft language of Senate Joint Resolution 8

Please strike Paragraph 2:

For the purposes of the federal Equal Protection Clause, the U.S. Supreme Court has developed a three-tiered test for determining whether a law that imposes a burden upon or provides a benefit to one class of persons to the exclusion of others is valid. Depending on the classification involved, the U.S. Supreme Court applies tests known as strict scrutiny, intermediate scrutiny, or rational basis scrutiny to analyze the government's justification for the classification. (*City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439-41 (1985)) The U.S. Supreme Court applies the strict scrutiny test to laws that classify persons by race, national origin, religion, or alienage or that infringe upon certain fundamental rights. The strict scrutiny test requires the government to prove that the classification is narrowly tailored to serve a compelling government interest. (*Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007)) The U.S. Supreme Court applies the intermediate scrutiny test to laws that classify persons by gender or their status as having been born out of wedlock. The intermediate scrutiny test requires the government to prove that the classification has a substantial relationship to an important government interest. (*United States v. Virginia*, 518 U.S. 515, 532-33 (1996)) For all other classifications, the U.S. Supreme Court typically applies scrutiny under a rational basis test which only requires the government to demonstrate that the classification is rationally related to a legitimate government interest. (*City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985))

Reason: We believe this will confuse voters as this speaks to the role of the Supreme Court in enforcing Equal protections. We believe this is unrelated to Equal Rights Amendment that will appear on the ballot in 2022.

Paragraph 3:

Add in "attempted" after the word "subsequent"

Reason: the 5 states have yet to officially rescind ratification.

Change "five" to "six"

Reason: North Dakota voted to rescind prior ratification in 2021,, making the total six states.

Paragraph 6:

After "classifications" please include "However, unlike constitutional amendments, statutory law is subject to changes by the legislature at any time".

Reason: We would like to clarify for voters the differences in protections between existing statutory law and constitutional amendments.

ARGUMENTS FOR PASSAGE:

Paragraph 1:

Please strike “strong” and replace with “enduring”

Reason: We feel this language change speaks to the true nature of the constitutional amendment.

Paragraph 2:

Add “Forty-four years ago, in before 1978”

Reason: We believe this better reflects the amount of time that has passed since the issue was voted against.

Paragraph 3:

Change: please strike

“allow courts in Nevada to apply a heightened level of scrutiny to laws involving classifications, which will require the government to provide more substantial justification for such classifications”.

And change the first sentence to read:

“Including these protections against discrimination in the Nevada Constitution will improve outcomes for people who have been discriminated against in Nevada.”

Reason: We believe this change centers the discussion on the impact for the people (and voters) in Nevada, rather than the courts.

Strike all of paragraph 4:

“They argue that this ballot measure will protect abortion rights, erode and destroy women’s sports by allowing male and transgender athletes to compete unfairly against women and girls, and endanger our students’ safety in school facilities such as restrooms and locker rooms. First, Nevada law already guarantees the right to an abortion and passage of this measure will not change this right. Second, the passage of Question 1 will not remove the State’s ability to ensure competitive balance in school sports. Finally, it will not prevent schools from hav[...]

Contact Information

Address:

City: Las Vegas

State: NV

Zip code: 89102

Email:

Comment form submission from Lindsey Harmon (1/2)

Comments on draft language of Assembly Joint Resolution 10

Comments on draft language of Senate Joint Resolution 8

DIGEST:

-Please strike Paragraph 2:

"For the purposes of the federal Equal Protection Clause, the U.S. Supreme Court has developed a three-tiered test for determining whether a law that imposes a burden upon or provides a benefit to one class of persons to the exclusion of others is valid. Depending on the classification involved, the U.S. Supreme Court applies tests known as strict scrutiny, intermediate scrutiny, or rational basis scrutiny to analyze the government's justification for the classification. (City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 439-41 (1985)) The U.S. Supreme Court applies the strict scrutiny test to laws that classify persons by race, national origin, religion, or alienage or that infringe upon certain fundamental rights. The strict scrutiny test requires the government to prove that the classification is narrowly tailored to serve a compelling government interest. (Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1, 551 U.S. 701, 720 (2007)) The U.S. Supreme Court applies the intermediate scrutiny test to laws that classify persons by gender or their status as having been born out of wedlock. The intermediate scrutiny test requires the government to prove that the classification has a substantial relationship to an important government interest. (United States v. Virginia, 518 U.S. 515, 532-33 (1996)) For all other classifications, the U.S. Supreme Court typically applies scrutiny under a rational basis test which only requires the government to demonstrate that the classification is rationally related to a legitimate government interest. (City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 440 (1985))"

-Reason: We believe this will confuse voters as this speaks to the role of the Supreme Court in enforcing Equal protections. We believe this is unrelated to Equal Rights Amendment that will appear on the ballot in 2022.

-Paragraph 3:

Add in "attempted" after the word "subsequent"

Reason: the 5 states have yet to officially rescind ratification.

Change "five" to "six"

Reason: North Dakota voted to rescind prior ratification in 2021, making the total six states.

-Paragraph 6:

After "classifications" please include "However, unlike constitutional amendments, statutory law is subject to changes by the legislature at any time".

-Reason: We would like to clarify for voters the differences in protections between existing statutory law and constitutional amendments.

ARGUMENTS FOR PASSAGE

-Paragraph 1:

Please strike "strong" and replace with "enduring"

-Reason: We feel this language change speaks to the true nature of the constitutional amendment.

-Paragraph 2:

Add "Forty-four years ago, in before 1978"

-Reason: We believe this better reflects the amount of time that has passed since the issue was voted against.

-Paragraph 3:

Please strike “allow courts in Nevada to apply a heightened level of scrutiny to laws involving classifications, which will require the government to provide more substantial justification for such classifications”.

And change the first sentence to read:

“Including these protections against discrimination in the Nevada Constitution will improve outcomes for people who have been discriminated against in Nevada.”

-Reason: We believe this change centers the discussion on the impact for the people (and voters) in Nevada, rather than the courts.

Additional Changes submitted in additional form as there appears to be an error with this form,

Contact Information

Address:

City: Reno

State: Nevada

Zip code: 89509

Email:

Comment form submission from Lindsey Harmon (2/2)

Comments on draft language of Assembly Joint Resolution 10

Comments on draft language of Senate Joint Resolution 8

Changes Continued from prior submission

ARGUMENTS FOR PASSAGE

STRIKE all of paragraph 4:

“They argue that this ballot measure will protect abortion rights, erode and destroy women’s sports by allowing male and transgender athletes to compete unfairly against women and girls, and endanger our students’ safety in school facilities such as restrooms and locker rooms. First, Nevada law already guarantees the right to an abortion and passage of this measure will not change this right. Second, the passage of Question 1 will not remove the State’s ability to ensure competitive balance in school sports. Finally, it will not prevent schools from having separate facilities for boys and girls.”

Add as paragraph 4 instead:

“Nevada needs to ensure equality for all of its residents in its constitution. This change would not only fill the gaps in existing protections such as equal pay and pregnancy discrimination, but it would provide the strongest legal protection against future legislative attempts to roll back equality rights in the state, including access to abortion and reproductive health care. It would also provide clear guidance to state courts and lawmakers on Nevada’s commitment to protecting its citizens against nondiscrimination and advancing equality. By passing Question 1, Nevada would join twenty-six other states that already have similar nondiscrimination protections in their constitutions.”

Reason: We believe this argument speaks to what the Equal Rights Amendment will do for people in Nevada instead of countering arguments for the opposition. We believe this better clarifies the scope and explains the purpose of the amendment.

Paragraph 5:

Add "Do not be misled by opponents' exaggerated and incorrect arguments about Question 1. These are distractions by people who want to block progress on equality. These false claims are meant to distract from the goal of the amendment - which is to ensure equality for all Nevada residents."

Reason: We believes this acknowledges the opposition, but still centers for voters to what the constitutional amendment will do.

ARGUEMENTS AGAINST PASSAGE

Strike paragraph 4:

"Second, this ballot measure will erode and destroy women's sports by allowing biological male and transgender athletes to compete unfairly against women and girls. Finally, this ballot measure will endanger our students' safety by allowing separate restrooms and locker rooms for boys and girls to be eliminated. "

Reason: There is no evidence that the use of this amendment would result in harm to students.

Contact Information

Address:

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State: Nevada

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Comment form submission from Jeri Burton (1/2)

Comments on draft language of Assembly Joint Resolution 10

Comments on draft language of Senate Joint Resolution 8

Please strike Paragraph 2:

For the purposes of the federal Equal Protection Clause, the U.S. Supreme Court has developed a three-tiered test for determining whether a law that imposes a burden upon or provides a benefit to one class of persons to the exclusion of others is valid. Depending on the classification involved, the U.S. Supreme Court applies tests known as strict scrutiny, intermediate scrutiny, or rational basis scrutiny to analyze the government's justification for the classification. (*City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439-41 (1985)) The U.S. Supreme Court applies the strict scrutiny test to laws that classify persons by race, national origin, religion, or alienage or that infringe upon certain fundamental rights. The strict scrutiny test requires the government to prove that the classification is narrowly tailored to serve a compelling government interest. (*Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007)) The U.S. Supreme Court applies the intermediate scrutiny test to laws that classify persons by gender or their status as having been born out of wedlock. The intermediate scrutiny test requires the government to prove that the classification has a substantial relationship to an important government interest. (*United States v. Virginia*, 518 U.S. 515, 532-33 (1996)) For all other classifications, the U.S. Supreme Court typically applies scrutiny under a rational basis test which only requires the government to demonstrate that the classification is rationally related to a legitimate government interest. (*City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985))

Reason: We believe this will confuse voters as this speaks to the role of the Supreme Court in enforcing Equal protections. We believe this is unrelated to Equal Rights Amendment that will appear on the ballot in 2022.

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Add in "attempted" after the word "subsequent"

Reason: the 5 states have yet to officially rescind ratification.

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After "classifications" please include "However, unlike constitutional amendments, statutory law is subject to changes by the legislature at any time".

Reason: We would like to clarify for voters the differences in protections between existing statutory law and constitutional amendments.

ARGUMENTS FOR PASSAGE:

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Reason: We feel this language change speaks to the true nature of the constitutional amendment.

Paragraph 2:

Add “Forty-four years ago, in” before 1978

Reason: We believe this better reflects the amount of time that has passed since the issue was voted against.

Paragraph 3:

Change: please strike

“allow courts in Nevada to apply a heightened level of scrutiny to laws involving classifications, which will require the government to provide more substantial justification for such classifications”.

And change the first sentence to read:

“Including these protections against discrimination in the Nevada Constitution will improve outcomes for people who have been discriminated against in Nevada.”

Reason: We believe this change centers the discussion on the impact for the people (and voters) in Nevada, rather than the courts.

changes on paragraph 4 on next page

Contact Information

Address:

City: Las Vegas

State: NV

Zip code: 89128

Email:

Comment form submission from Jeri Burton (2/2)

Comments on draft language of Assembly Joint Resolution 10

Comments on draft language of Senate Joint Resolution 8

Strike all of paragraph 4:

“They argue that this ballot measure will protect abortion rights, erode and destroy women’s sports by allowing male and transgender athletes to compete unfairly against women and girls, and endanger our students’ safety in school facilities such as restrooms and locker rooms. First, Nevada law already guarantees the right to an abortion and passage of this measure will not change this right. Second, the passage of Question 1 will not remove the State’s ability to ensure competitive balance in school sports. Finally, it will not prevent schools from having separate facilities for boys and girls.”

Add as paragraph 4 instead:

“Nevada needs to ensure equality for all of its residents in its constitution. This change would not only fill the gaps in existing protections such as equal pay and pregnancy discrimination, but it would provide the strongest legal protection against future legislative attempts to roll back equality rights in the state, including access to abortion and reproductive health care. It would also provide clear guidance to state courts and lawmakers on Nevada’s commitment to protecting its citizens against nondiscrimination and advancing

equality. By passing Question 1, Nevada would join twenty-six other states that already have similar nondiscrimination protections in their constitutions.”

Reason: We believe this argument speaks to what the Equal Rights Amendment will do for people in Nevada instead of countering arguments for the opposition. We believe this better clarifies the scope and explains the purpose of the amendment.

Paragraph 5:

Add “Do not be misled by opponents’ exaggerated and incorrect arguments about Question 1. These are distractions by people who want to block progress on equality. These false claims are meant to distract from the goal of the amendment - which is to ensure equality for all Nevada residents.”

Reason: We believes this acknowledges the opposition, but still centers for voters to what the constitutional amendment will do.

ARGUMENTS AGAINST PASSAGE

Paragraph 4:

Please strike “Second, this ballot measure will erode and destroy women’s sports by allowing biological male and transgender athletes to compete unfairly against women and girls. Finally, this ballot measure will endanger our students’ safety by allowing separate restrooms and locker rooms for boys and girls to be eliminated.”

Reason: There is no evidence that the use of this amendment would result in harm to students.

Contact Information

Address:

City: Las Vegas

State: NV

Zip code: 89128

Email:

Comment form submission from Melody Judilla (1/2)

Comments on draft language of Assembly Joint Resolution 10

Comments on draft language of Senate Joint Resolution 8

In the Digest:

Please strike Paragraph 2:

"For the purposes of the federal Equal Protection Clause, the U.S. Supreme Court has developed a three-tiered test for determining whether a law that imposes a burden upon or provides a benefit to one class of persons to the exclusion of others is valid. Depending on the classification involved, the U.S. Supreme Court applies tests known as strict scrutiny, intermediate scrutiny, or rational basis scrutiny to analyze the government's justification for the classification. (City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 439-41 (1985)) The U.S. Supreme Court applies the strict scrutiny test to laws that classify persons by race, national origin, religion, or alienage or that infringe upon certain fundamental rights. The strict scrutiny test requires the government to prove that the classification is narrowly tailored to serve a compelling government interest. (Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1, 551 U.S. 701, 720 (2007)) The U.S. Supreme Court applies the intermediate scrutiny test to laws that classify persons by gender or their status as having been born out of wedlock. The intermediate scrutiny test requires the government to prove that the classification has a substantial relationship to an important government interest. (United States v. Virginia, 518 U.S. 515, 532-33 (1996)) For all other classifications, the U.S. Supreme Court typically applies scrutiny under a rational basis test which only requires the government to demonstrate that the classification is rationally related to a legitimate government interest. (City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 440 (1985))"

Reason: We believe this will confuse voters as this speaks to the role of the Supreme Court in enforcing Equal protections. We believe this is unrelated to Equal Rights Amendment that will appear on the ballot in 2022.

Paragraph 3:

Add in "attempted" after the word "subsequent"

Reason: the 5 states have yet to officially rescind ratification.

Change "five" to "six"

Reason: North Dakota voted to rescind prior ratification in 2021., making the total six states.

Paragraph 6:

After "classifications" please include "However, unlike constitutional amendments, statutory law is subject to changes by the legislature at any time".

Reason: We would like to clarify for voters the differences in protections between existing statutory law and constitutional amendments.

In the "ARGUMENTS FOR PASSAGE":

Paragraph 1:

Please strike "strong" and replace with "enduring"

Reason: We feel this language change speaks to the true nature of the constitutional amendment.

Paragraph 2:

Add "Forty-four years ago, in before 1978"

Reason: We believe this better reflects the amount of time that has passed since the issue was voted against.

Paragraph 3:

Change: please strike

“allow courts in Nevada to apply a heightened level of scrutiny to laws involving classifications, which will require the government to provide more substantial justification for such classifications”.

And change the first sentence to read: “Including these protections against discrimination in the Nevada Constitution will improve outcomes for people who have been discriminated against in Nevada.”

Reason: We believe this change centers the discussion on the impact for the people (and voters) in Nevada, rather than the courts.

Contact Information

Address:

City: Henderson

State: NV

Zip code: 89119

Email:

Comment form submission from Melody Judilla (2/2)

Comments on draft language of Assembly Joint Resolution 10

Comments on draft language of Senate Joint Resolution 8

In "ARGUMENTS FOR PASSAGE":

Strike all of paragraph 4 (below) :

“They argue that this ballot measure will protect abortion rights, erode and destroy women’s sports by allowing male and transgender athletes to compete unfairly against women and girls, and endanger our students’ safety in school facilities such as restrooms and locker rooms. First, Nevada law already guarantees the right to an abortion and passage of this measure will not change this right. Second, the passage of Question 1 will not remove the State’s ability to ensure competitive balance in school sports. Finally, it will not prevent schools from having separate facilities for boys and girls.”

Add as paragraph 4 instead:

“Nevada needs to ensure equality for all of its residents in its constitution. This change would not only fill the gaps in existing protections such as equal pay and pregnancy discrimination, but it would provide the strongest legal protection against future legislative attempts to roll back equality rights in the state, including access to abortion and reproductive health care. It would also provide clear guidance to state courts and lawmakers on Nevada’s commitment to protecting its citizens against nondiscrimination and advancing equality. By passing Question 1, Nevada would join twenty-six other states that already have similar nondiscrimination protections in their constitutions.”

Reason: We believe this argument speaks to what the Equal Rights Amendment will do for people in Nevada instead of countering arguments for the opposition. We believe this better clarifies the scope and explains the purpose of the amendment.

Paragraph 5:

Add “Do not be misled by opponents’ exaggerated and incorrect arguments about Question 1. These are distractions by people who want to block progress on equality. These false claims are meant to distract from the goal of the amendment - which is to ensure equality for all Nevada residents.”

Reason: We believe this acknowledges the opposition, but still centers on voters to what the constitutional amendment will do.

In "ARGUMENTS AGAINST PASSAGE":

Strike paragraph 4 (below):

"Second, this ballot measure will erode and destroy women’s sports by allowing biological male and transgender athletes to compete unfairly against women and girls. Finally, this ballot measure will endanger our students’ safety by allowing separate restrooms and locker rooms for boys and girls to be eliminated."

Reason: There is no evidence that the use of this amendment would result in harm to students.

Contact Information

Address:

City: Henderson

State: NV

Zip code: 89119

Email:

Comment form submission from Christine Saunders

Comments on draft language of Assembly Joint Resolution 10

Comments on draft language of Senate Joint Resolution 8

Digest:

- Strike ¶ 2, Federal Supreme Court enforcement is not relevant to the state ERA on the ballot.
- ¶ 3, Add in “attempted” after the word “subsequent.”
- Change “five” to “six,” ND voted to rescind prior ratification in 2021, making the total six states.
- ¶ 6, After “classifications” please include “However, unlike constitutional amendments, statutory law is subject to changes by the legislature at any time,” to clarify the differences between statutory law and constitutional amendments.

Arguments for Passage:

- ¶ 1, Strike, "strong" and replace with "enduring," this language better expresses the nature of the constitutional amendment
- ¶ 2, Add, "Forty-four years ago, in" before 1978 to better clarify the time that has passed
- ¶ 3, Strike, "allow courts in Nevada to apply a heightened level of scrutiny to laws involving classifications, which will require the government to provide more substantial justification for such classifications," and instead change the first sentence to read, "Including these protections against discrimination in the Nevada Constitution will improve outcomes for people who have been discriminated against in Nevada" to center the attention on Nevadans, not the courts
- ¶ 4, Strike, “They argue that this ballot measure will protect abortion rights, erode and destroy women’s sports by allowing male and transgender athletes to compete unfairly against women and girls, and endanger our students’ safety in school facilities such as restrooms and locker rooms. First, Nevada law already guarantees the right to an abortion and passage of this measure will not change this right. Second, the passage of Question 1 will not remove the State’s ability to ensure competitive balance in school sports. Finally, it will not prevent schools from having separate facilities for boys and girls.”
- ¶ 4, Replace with, "Nevada needs to ensure equality for all of its residents in its constitution. This change would not only fill the gaps in existing protections such as equal pay and pregnancy discrimination, but it would provide the strongest legal protection against future legislative attempts to roll back equality rights in the state, including access to abortion and reproductive health care. It would also provide clear guidance to state courts and lawmakers on Nevada’s commitment to protecting its citizens against nondiscrimination and advancing equality. By passing Question 1, Nevada would join twenty-six other states that already have similar nondiscrimination protections in their constitutions.”
- ¶ 5, Add “Do not be misled by opponents’ exaggerated and incorrect arguments about Question 1. These are distractions by people who want to block progress on equality. These false claims are meant to distract from the goal of the amendment - which is to ensure equality for all Nevada residents.”

Arguments Against Passage:

- ¶ 4, Strike, “Second, this ballot measure will erode and destroy women’s sports by allowing biological male and transgender athletes to compete unfairly against women and girls. Finally, this ballot measure will endanger our students’ safety by allowing separate restrooms and locker rooms for boys and girls to be eliminated," because there is no evidence that the use of this amendment would result in harm to students.

Contact Information

Address:

City: Reno

State: NV

Zip code: 89523

Email:

Comment form submission from Karen England

Comments on draft language of Assembly Joint Resolution 10

Comments on draft language of Senate Joint Resolution 8

ARGUMENTS AGAINST PASSAGE

Question 1 would open the door to government-enforced discrimination against women, religious organizations, faith-based schools, and even medical professionals. For example, enshrining “gender identity” into the Nevada Constitution would require that males who self-identify as female be allowed to take spots on women’s sports teams, depriving young women of scholarships and other academic and sports-related benefits that come from athletic competition. It would also mandate that males be given access to women’s shelters, women’s changing rooms and locker rooms, and even girls’ rooms on overnight school trips. It could even lead to men taking business opportunities created for women-owned business in Nevada.

Question 1 could further lead to students at faith-based colleges and universities in Nevada being denied access to state financial aid unless those institutions change their sincerely held beliefs about marriage and human sexuality. This could also result in religious schools and charitable organizations facing crippling lawsuits and legal liability for requiring their employees to abide by the organization’s religious doctrines and beliefs on these subjects.

Nurses, doctors, and other health care professionals could also face loss of licensure and other harms under Question 1. For instance, a growing number of those in the health care industry are sounding the alarm about the risks and uncertainties of giving puberty blockers, cross-sex hormones, and even surgery to minors who experience distress over their gender. If passed, Question 1 could force medical professionals to either violate their oath to care for patients in accordance with their best medical judgment or leave the profession entirely.

Finally, Question 1 could result in taxpayers being mandated to pay for abortions. Courts in New Mexico, Connecticut, and Massachusetts relied on similar language in their state constitutions to strike down state restrictions on the use of taxpayer funding to pay for abortions. If the federal courts overturn *Roe v. Wade*, thus returning the regulation of abortion to the states, the amendment proposed by Question 1 could be used to argue against even reasonable limits on abortion—such as restricting abortions in the third trimester or prohibiting certain barbaric methods to terminate the life of the child in the womb.

Question 1 is also legally redundant and unnecessary. There is no need to amend the Nevada Constitution to add new protected classifications when federal and state law already prohibit discrimination on the basis of sex and certain other classifications. Those existing laws already provide a person who has experienced discrimination with a legal remedy. As a result, approval of Question 1 is not necessary to address any discrimination in the state.

If passed, Question 1 would dramatically expand the list of protected characteristics under the Nevada Constitution, something that no other state has done because of the significant concerns for what that would mean for free speech, religious freedom, conscience rights, and even privacy and safety in locker rooms, restroom, and other private facilities.

Enshrining broad protected classifications into the Nevada Constitution will make it difficult to fix its inevitable unintended consequences. Approval of Question 1 will result in a flood of litigation, clogging our court system because of its vague and expansive language. Further, because Question 1 cements this

language into the Nevada Constitution, it will require another lengthy constitutional amendment process to undo its negative effects.

This ballot measure is harmful, unnecessary, and misguided. Vote “No” on Question 1.

Contact Information

Address:

City: Sacramento

State: CA

Zip code: 95814

Email:

From: [Janine](#)
To: [Thornton, Diane](#)
Cc: ["Janine"](#)
Subject: Please let m know you received this. Response on ballot questions.
Date: Sunday, May 29, 2022 10:11:40 PM

You don't often get email from [REDACTED] [Learn why this is important](#)

This is from Janine Hansen, [REDACTED]. Please let me know you received it.

The Arguments Against passage of Ballot Question 1 are extremely weak and do not adequately reflect the position of opponents or our concerns.

Also your statement on page 2 that asserts that the federal ERA is pending is absolutely false and needs to be removed. "Upon guidance from the Trump Administration's Office of Legal Counsel in 2020, national archivist, David Ferriero, declined to add ERA as the 28th Amendment to the Constitution. Proponents sued Ferriero. In March 2021, Obama-appointed Washington, D.C. Circuit Court Judge Rudolph Contreras confirmed that the 1972-passed Equal Rights Amendment was dead, could not be revived, and that ERA could not be added to the Constitution. On January 6, 2022, the Biden Administration Office of Legal Counsel issued an [opinion](#) leaving in place the guidance from the Trump Administration, providing bi-partisan confirmation that ERA is dead."

<https://eagleforum.org/publications/press-releases/era-confirmed-dead-by-biden-administration.html>

We do not just consider Question 1 to be "redundant and unnecessary" but harmful and dangerous especially to girls, women and parents.

Some of the dangerous consequences of language in the amendment including "sex, sexual orientation, gender identity or expression and age" could, as we already see happening, allow minor children to receive puberty blockers and surgery for gender change without parental consent.

One of the most dangerous assertions in your explanation gives the appearance that religious liberty will be protected under the state ERA. This is erroneous. I specifically asked the sponsor to add religious liberty to her list of rights supposedly protected by the proposed Nevada ERA. She refused and religious liberty was specifically left out of the proposed amendment. As a result of the last couple of years under covid we can see that government can eliminate religious liberty at their whim. None of the protections cited in your explanation protected religious liberty during the pandemic. The State ERA will, and I believe, was designed to be an assault on religious liberty.

Because the proposed amendment DOES NOT protect religious liberty, It could force professionals who object to performing abortions and prescribing puberty blockers and gender change surgery for children to perform such or give up their professions.

Because it does not protect Religious Liberty, it will result in discrimination of individuals and organizations with traditional views on marriage and gender, and

result in funding cuts to social service organizations. Even privately funded religious schools and organizations will be at risk.

As under the State ERA in New Mexico this amendment will result in TAX Funded abortions.

In counties where prostitution is legal and regulated by the state, will current age requirements be upheld?

Could age-based laws on sex, sexual consent, and child endangerment be challenged?

It will result in allowing biological males to compete against girls in sports and on sports teams and for scholarships, harming girls and women.

It will require government owned facilities, like schools and colleges, to allow biological men in women's bathrooms, showers and locker rooms endangering girls and women.

No other state has such an extreme and legally untested constitutional provision.

No substantive hearings were held on the impacts of this vague language. It is truly impossible to know the far reaching consequences.

It will hurt women, girls and parents and is dangerous so Vote No on Question 1.

From: [Melissa Clement](#)
To: [Thornton, Diane](#)
Subject: Comments on Draft Ballot Question 1
Date: Monday, May 30, 2022 4:02:45 PM

You don't often get email from [REDACTED]. [Learn why this is important](#)

Diane,

Nevada Right to Life offers the following objections to 2022 Q1. While we are very concerned about the additional problems outside the scope of abortion, we are limiting our comments knowing other subject matter experts will illuminate the many other issues with this question.

Arguments For Passage of Q1

PARA FOUR is highly argumentative by its use of loaded language such as “exaggerated and incorrect arguments.” Please eliminate it. In the same paragraph it reads “Nevada law already guarantees the right to an abortion and passage of this measure will not change this right.” This is factually inaccurate and disingenuous. Even 442.250 which is protected by the 1990 referendum (requiring a doctor to perform abortions) could be challenged by this era, as could ultrasound requirements, women’s right to know, tax payer funding bans, etc.

Arguments Against Passage of Q1:

PLEASE ELIMINATE PARA ONE AND TWO AS THEY DO NOT REPRESENT THE CONCERNS OF OPPONENTS. Proposed language below with cites.

No substantive hearings were held on the impacts of this vague language. It is truly impossible to know the far-reaching consequences. The Legislature effectively denied public participation and transparency when it bypassed procedure to rush SJR8 to ballot. The legislature allowed insufficient opportunity for testimony by subject matter experts during the two legislative sessions. Voters are asked to vote on a far-reaching amendment with consequences legislators failed to consider or publicize.

[Nevada’s process for Constitutional Amendment provides an opportunity for the legislature to conduct extensive hearings into the cause and effect of proposed amendments. Opponents and proponents (both citizens and subject matter experts) have the chance to testify on specific language, thus providing the legislators information. Both house has a hearing, a committee vote, and full floor vote. This must happen two times prior to it going to the ballot. Nevadans were denied participation and full thrashing out of the language in SJR8. Now citizens will be asked to vote on a vague, ambiguous, problematic amendment with far-reaching impact with little to no information.]

Analysts on both sides of the abortion issue recognize that an Equal Rights Amendment (either state or federal) based on “sex” without a carve out for abortion, could enshrine “abortion rights” into the text of the Constitution, with sweeping and permanent destructive effects on pro-life laws and policies.

[Pro-abortion activists already have aggressively employed state ERAs to challenge pro-life policies. For example, in New Mexico, state affiliates of Planned Parenthood

and NARAL relied on the state ERA in a legal attack on the state version of the “Hyde Amendment,” prohibiting Medicaid funding of elective abortions. In its 1998 ruling in *NM Right to Choose / NARAL v. Johnson*, No. 1999-NMSC-005, the New Mexico Supreme Court unanimously agreed that the state ERA required the state to fund abortions performed by medical professionals, since procedures sought by men (e.g., prostate surgery) are funded. The New Mexico Supreme Court based its ruling solely on the state ERA. Moreover, the Women’s Law Project, in concert with Planned Parenthood, is currently pursuing a very similar lawsuit in Pennsylvania (*Allegheny Reproductive Health Center v. Pennsylvania Department of Human Services*), arguing that it is “contrary to a modern understanding” to argue that an ERA is consistent with limitations on government funding of abortion.

Once a court adopts the understanding that a law limiting abortion by definition is a form of discrimination based on sex, and therefore impermissible under an ERA, that doctrine could invalidate virtually any limitation on abortion. For example, under this doctrine, the proposed federal ERA would invalidate the federal Hyde Amendment and all state restrictions on tax-funded abortions. Likewise, it would nullify any federal or state restrictions even on partial-birth abortions or third-trimester abortions (since these too are sought only by women). Also vulnerable would be federal and state

“conscience laws,” which allow government-supported medical facilities and personnel – including religiously affiliated hospitals – to refuse to participate in abortions.]

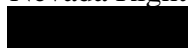
Enshrining broad [untested] equal rights language into the Nevada Constitution will make it difficult to fix its inevitable unintended consequences. Approval of Question 1 will result in a flood of litigation, clogging our court system because of its vague and expansive language. Further, because Question 1 cements this language into the Nevada Constitution, it will require another lengthy constitutional amendment process to undo its negative effects.

There are unforeseen consequences of the Federal ERA, an act that only considers “sex”. Q1 adds 10 additional protected classes, yet does not consider each, nor the interplay of all or some of these classes. For instance, could current or future age-based laws on sex, sexual consent, child endangerment, parental consent and notification be challenged? How would the combination of sex, age, and gender affect legalized prostitution? For example, can children under 21 work at a brothel?

Thank you for the opportunity to give input. Please acknowledge receipt.

My best to you,

Melissa Clement
Nevada Right to Life



From: [Nancy](#)
To: [Thornton, Diane](#)
Subject: Regarding SJR8
Date: Monday, May 30, 2022 1:27:47 PM

You don't often get email from [REDACTED]. [Learn why this is important](#)

Hello,

I have reviewed the digest regarding SJR8, and I feel the verbage used to describe the opposition to the resolution is lacking. I am not in favor of the resolution because it doesn't include protection and equal rights on the basis of religion. In other states with ERAs, the language has been construed as justification for tax payer funded elective abortion, as in non-medically necessary abortion.

It is inappropriate to give more rights to certain groups of people based on their gender and other identities while disregarding the fundamental right of people to live their religion and according to their deeply held religious beliefs.

Also, if any man or boy can become a girl or woman just by saying they are, then there is no such thing as women's shelters, girls sports, women's sports, or mothers or fathers. This erodes and causes confusion for every current NRS and code and NV program that aims to protect or support girls, women, or mothers specifically. The language of the resolution essentially makes a protected class out of anyone claiming a different gender at the expense of everyone else's rights, opportunities, beliefs, freedoms, and speech. This resolution undermines religious freedom, freedom of speech, and freedom of assembly and will create unintended negative consequences.

Sincerely,
Nancy Jones
NV resident

From: [Karen England](#)
To: [Thornton, Diane](#)
Subject: SJR8 Arguments against Question 1
Date: Monday, May 30, 2022 4:08:59 PM
Attachments: [image001.png](#)
[Capitol Resource Institute and Nevada Family Alliance.docx](#)

You don't often get email from [REDACTED]. [Learn why this is important](#)

Diane,

Please see the attached response to our arguments in opposition of Question 1.

Please confirm that you received our proposed language.

Karen England
President
[CapitolResource.org](#)
[NevadaFamilyAlliance.org](#)



Capitol Resource Institute and Nevada Family Alliance

SJR8

ARGUMENTS AGAINST PASSAGE

Question 1 would open the door to government-enforced discrimination against women, religious organizations, faith-based schools, and even medical professionals. For example, enshrining “gender identity” into the Nevada Constitution would require that males who self-identify as female be allowed to take spots on women’s sports teams, depriving young women of scholarships and other academic and sports-related benefits that come from athletic competition. It would also mandate that males be given access to women’s shelters, women’s changing rooms and locker rooms, and even girls’ rooms on overnight school trips. It could even lead to men taking business opportunities created for women-owned business in Nevada.

Question 1 could further lead to students at faith-based colleges and universities in Nevada being denied access to state financial aid unless those institutions change their sincerely held beliefs about marriage and human sexuality. This could also result in religious schools and charitable organizations facing crippling lawsuits and legal liability for requiring their employees to abide by the organization’s religious doctrines and beliefs on these subjects.

Nurses, doctors, and other health care professionals could also face loss of licensure and other harms under Question 1. For instance, a growing number of those in the health care industry are sounding the alarm about the risks and uncertainties of giving puberty blockers, cross-sex hormones, and even surgery to minors who experience distress over their gender. If passed, Question 1 could force medical professionals to either violate their oath to care for patients in accordance with their best medical judgment or leave the profession entirely.

Finally, Question 1 could result in taxpayers being mandated to pay for abortions. Courts in New Mexico, Connecticut, and Massachusetts relied on similar language in their state constitutions to strike down state restrictions on the use of taxpayer funding to pay for abortions. If the federal courts overturn *Roe v. Wade*, thus returning the regulation of abortion to the states, the amendment proposed by Question 1 could be used to argue against even reasonable limits on abortion—such as restricting abortions in the third trimester or prohibiting certain barbaric methods to terminate the life of the child in the womb.

Question 1 is also legally redundant and unnecessary. There is no need to amend the Nevada Constitution to add new protected classifications when federal and state law already prohibit

discrimination on the basis of sex and certain other classifications. Those existing laws already provide a person who has experienced discrimination with a legal remedy. As a result, approval of Question 1 is not necessary to address any discrimination in the state.

If passed, Question 1 would dramatically expand the list of protected characteristics under the Nevada Constitution, something that no other state has done because of the significant concerns for what that would mean for free speech, religious freedom, conscience rights, and even privacy and safety in locker rooms, restroom, and other private facilities.

Enshrining broad protected classifications into the Nevada Constitution will make it difficult to fix its inevitable unintended consequences. Approval of Question 1 will result in a flood of litigation, clogging our court system because of its vague and expansive language. Further, because Question 1 cements this language into the Nevada Constitution, it will require another lengthy constitutional amendment process to undo its negative effects.

This ballot measure is harmful, unnecessary, and misguided. Vote “No” on Question 1.

From: [Juanita Cox](#)
To: [Thornton, Diane](#)
Subject: ERA Testimony
Date: Monday, May 30, 2022 2:29:45 PM

You don't often get email from [REDACTED]. [Learn why this is important](#)

Juanita Cox
[REDACTED]

I, Juanita Cox, have testified repeatedly in favor of ERA (70's) and against ERA after the EQUAL RIGHTS were established.

In the 70's women did not have financial rights equivalent to men. I was a victim of this inequity when I was making a substantial wage working TWO JOBS, owned property and assets but after my divorce, I had to RE established my entire financial credit and situation where my former husband walked away with MY GOOD CREDIT RATING!

Shortly after our successful EQUALITY RIGHTS were restored through legislation, the situation started to become more of a nightmare.

Women were not satisfied with being equal and rapidly became viscusly feminist! At that time I testified **against** their repeated requests for ERA, stating we were equal!

I continue my plea that equality has been established and to continue with more ERA legislation is INSANE! This would change the dynamic and women would actually lose rights.

I plea to stop the insanity of further legislation and leave us in the equality we established in the 1970's!

Respectfully,

Juanita Cox

Sent from my iPhone

From: [Don Nelson](#)
To: [Thornton, Diane](#)
Subject: Comments regarding arguments for and against Senate Joint Resolution 8 - to amend the Nevada Constitution to guarantee equal rights.
Date: Monday, May 30, 2022 3:29:36 PM
Attachments: [ERA-Abortion Quotesheet 3-5-20 \(5 page\) \(002\).pdf](#)

[REDACTED]

Dear Ms. Thornton,

Below are my comments regarding the arguments for and against Senate Joint Resolution 8, to amend the Nevada Constitution to guarantee equal rights.

Sincerely,

Don Nelson

[REDACTED]

[REDACTED]

My name is Don Nelson. I'm a board member of Nevada Right to Life. In the past I have testified on behalf of Pro-life League of Nevada regarding SRJ8/Question 1.

I have some comments about the arguments for and against passage of Question 1 (SJR8*). The argument for passage regarding abortion is wrong and insufficient. The arguments regarding the impact on abortion of passage of question one are insufficient and weak.

The argument for passage says, "Do not be misled by opponents' exaggerated and incorrect arguments about Question 1. They argue that this ballot measure will protect abortion rights." They also claim that "Nevada law already guarantees the right to an abortion and passage of this measure will not change this right."

1. The argument that Nevada already protects abortion, and that passage of Questions 1 will not change this right is wrong or at least insufficient. Not everything that abortion advocates want is contained in Nevada Law. For instance, they want public funding of abortion. Opponents of the passage of Question 1 not only think that Question 1 will only protect abortion rights, but that it will lead to public funding and that in the future it will defeat proposed abortion restrictions like parental notification, safety requirements, late abortions, abortions when pain can be felt, informed consent and more. Further, if the citizens decide to change the law on abortion access in the future, they will also need to repeal Question 1.

Therefore, the argument against passage should say that Question 1 will further change abortion law and prevent future changes to abortion law in Nevada, many of which have high approval with Nevadans.

2. Arguments against passage should also clearly say that contrary to supporters claims that we are

misleading the public about the impact of Question 1 on abortion, that opponents of passage have repeatedly testified that leading abortion advocates say Question 1 (ERA SJR8*) will be used to change and cement abortion law. I do not believe that our opponent's leaders cannot know that abortion leaders themselves say ERA (Question 1) is about abortion and will be used to change and impact abortion law. They say it publicly and widely.

In the 2021 Senate hearing on SRJ8 I changed my prepared testimony due to comments that either directly or indirectly insinuated that we are making this up. I wrote the following script and believe I delivered it as follows when it was my turn.

"We hear that this amendment and other ERAs are not about abortion. We resent the notion that we are making this. We get it from abortion advocates themselves.

"For example, NARAL Pro-Choice America, in a March 13, 2019 national alert, asserted that "the ERA would reinforce the constitutional right to abortion . . . [it] would require judges to strike down anti-abortion laws . . ." A National Organization for Women factsheet on the ERA states that "...an ERA -- properly interpreted -- could negate the hundreds of laws that have been passed restricting access to abortion care..." The general counsel of the National Women's Law Center told AP that the ERA would allow courts to rule that limits on abortion "perpetuate gender inequality."

"I am submitting a collection of quotes from abortion advocates and proponents that say that there is an abortion connection and that ERAs of this type will be used to protect abortion and to attack limitation.

"Mrs. Clement has already noted that State ERA have been used to strike abortion laws in CT and NM.

"This ERA, as written, is in a very large part about abortion. Some courts have said so and abortion advocates say so too.

Thank you for your time. (End of my spoken testimony.)

3. The public description of the effect should note that we believe that Question 1 will impact current abortion law and future laws and regulations because Courts in New Mexico and Connecticut have used state ERA laws similar to the language in Question 1. They are actively trying to do so in at least one other state (Pennsylvania). As I and others have testified, "they have used state ERAs to overturn state laws prohibiting taxpayer funding of abortion on the grounds that to not fund abortion is sex discrimination. The rationale is that since abortion is a medical procedure sought only by women, laws treating abortion differently from other medical procedures is a form of sex discrimination. The same rationale will be used to expand and protect abortion in Nevada. Another attempt has been used to change Pennsylvania's abortion laws based on their state's ERA."

These corrections need to be made to the arguments for and against passage of Question 1.

Sincerely,

Don Nelson
Board Member
Nevada Right to Life



From: [REDACTED]
To: [Thornton, Diane](#)
Subject: 2022 ERA Ballot Question 1 Summary (Con)
Date: Monday, May 30, 2022 1:16:10 PM

You don't often get email from [REDACTED] [Learn why this is important](#)

2022 ERA Ballot Question 1 Summary

The Arguments Against the passage of Ballot Question 1 have left out information on important issues that need to be included.

Religious Liberties are at risk. Religious Liberties are not even mentioned in the Arguments Against Ballot Question 1 explanation. Our religious schools, doctors, nurses and even organizations would be discriminated against with no protections because their work includes helping women decide to carry a baby in the womb, not performing abortions, prescribing puberty blockers and gender changing surgery on children and adoption options. Right to conscience is overlooked for some occupations now, such as doctors, nurses, pharmacists and hospitals.

The "age of consent" is not mentioned in the Argument Against Ballot Question 1. Language in the amendment include "sex, sexual orientation, gender identity or expression and AGE". We need to point out in the argument that "age of consent" may be done away with as there are no protections that it will be left in. That leaves the door open to all sorts of dangers for our children. Not having parents be a part of decision making for their own children, including such decisions as gender changing surgery, puberty blocker "therapy", abortion, sexual involvement at an early age, sexual involvement at an early age with an adult, etc.

I do believe that "women's shelters" should include the mention of domestic battery. Many of the women in the shelters are there to be protected from a domestic battery situation. Would they be protected, or will the person doing the battery be able to be in the same shelter or will the battered woman be easier to find?

Thank you for asking me to be a part of the input on the "con" side of the argument.

Lynn Chapman
State Vice President, Eagle Forum



From: [Diane Nicolet](#)
To: [King, Julianne](#)
Cc: [Thornton, Diane](#)
Subject: Re: Draft Ballot Questions (AJR 10 and SJR 8) - Request for Review and Comment
Date: Tuesday, May 17, 2022 5:42:33 PM
Attachments: [ATT00001.htm](#)
[image003.png](#)
[Q1 SJR 8 \(Equal Rights\) for Public Comment 5.16.22.pdf](#)
[ATT00002.htm](#)
[Q2 AJR10 \(minimum wage\) for Public Comment 5.16.22.pdf](#)
[ATT00003.htm](#)

You don't often get email from [REDACTED]. [Learn why this is important](#)

Thank you for asking. Wages should not be in the NV Constitution. And, question ...does equal rights need further definition in the NV Constitution?

Again, thank you for asking.

Sent from my iPhone
dr di - I do my homework!

Argument Against Passage of Question 1 – Equal Rights Amendment to the NV Constitution

The Equal Rights Amendment has been described by proponents as a benevolent way to ensure the “equality of rights under the law” for everyone regardless of their race, sexual orientation, sexual identity, etc. Sounds great, right? Who doesn’t want to see everyone treated equally under the law?

Yet, a deeper look will reveal a darker vision that will jeopardize the rights of women, children, parents, doctors, charitable organizations, and religious institutions – both laity and clergy. In fact, there is no stated protection of religious rights under this amendment. And that, in and of itself, should be cause for concern. Yet, there are other serious concerns as well.

Regardless of what those that favor this amendment say, the Nevada ERA could mandate taxpayer-funded abortions. This occurred in New Mexico when the New Mexico Supreme Court mandated taxpayers pay in 1998. This also occurred in Connecticut under the guise that restricting abortion is a form of sexual discrimination.

By promoting “gender identity” in the state constitution, men who identify as women would be allowed to compete with biological women in sporting events. This “inclusion” will destroy women’s sports and undermine the chances for young women in Nevada to advance in their athletic field and receive scholarships.

Next, this amendment could potentially open sex-specific facilities such as locker rooms and restrooms to members of the opposite sex, violating the privacy of young women and increasing the risk for sexual assault.

Religious freedom could be imperiled by forcing clergy and businesses to accommodate same-sex marriage even if doing so violates their religious and personal convictions, and according to the Alliance Defending Freedom for Faith and Justice, “SJR8 (Nevada ERA) would deny state financial aid to students at faith-based colleges and universities unless they abandon policies and practices reflecting their sincerely held beliefs about marriage and sexuality.... It could forbid religious schools and organizations from ensuring that their employees abide by their doctrines or beliefs about marriage, sexual behavior, and the distinction between the sexes.”

Not only would a Nevada ERA open the door to blatant opposition to the First Amendment that protects our right to freely practice our religion, it could also politicize medicine and force physicians and hospitals to violate their oath and values and prescribe sex-altering therapies, such as puberty blockers, to young children who are struggling with gender identity. These therapies could cause unwarranted, irreversible harm since “research has shown that 80 to 90 percent of children outgrow their distress with their bodies after puberty (*Daily Signal*, May 15, 2020).

Alarminglly, Catholic hospitals in California and New Jersey have already been sued for declining to perform hysterectomies on otherwise healthy women who want to become male. A Catholic hospital in Washington settled out of court when the ACLU sued them for declining to perform a double mastectomy on a gender dysphoric sixteen-year-old girl.

Creating even more disruption, the new sexual norms that this amendment supports harm and divide families. Parents will be required to adhere to sex-altering therapies that they believe are not in the best interest of their children.

“Once you change the definition of gender (identity/expression) in the Constitution, legislators can **NOT** address the unintended **CONSEQUENCES**,” points out Karen Barton England, the Executive Director of Nevada Family Alliance.

The vagueness of the language in the Nevada ERA will open the door to laws that would uproot the freedom of Nevadans, harm our youth, and result in excessive lawsuits. Please vote **NO** on ballot question one.

Bob Russo

[REDACTED]

[REDACTED]

Ballot Question No. 1

After Consideration of Public Comments,
the LCB's **Revised Draft** of Ballot Materials for
Senate Joint Resolution No. 8 of the 80th Session
for Consideration by the Legislative Commission
Pursuant to NRS 218D.810

EXPLANATION OF FORMATTING IN REVISED DRAFT

1. Matter in ***bolded italics*** is language to be added to ballot materials;
and
2. Matter between brackets ~~strike-through~~ is language to be
removed from ballot materials.

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Senate Joint Resolution No. 8 of the 80th Session

Shall the *Nevada Constitution* be amended by adding a specific guarantee that equality of rights under the law shall not be denied or abridged by this State or any of its cities, counties, or other political subdivisions on account of race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, or national origin?

EXPLANATION & DIGEST

A “Yes” vote would amend the *Nevada Constitution* to add new language specifically guaranteeing that equality of rights under the law shall not be denied or abridged by the State or any of its cities, counties, or other political subdivisions based on race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, or national origin.

A “No” vote would not amend the *Nevada Constitution* to add new language specifically guaranteeing that equality of rights under the law shall not be denied or abridged by the State or any of its cities, counties, or other political subdivisions based on race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry or national origin.

DIGEST—Existing federal and state constitutional and statutory provisions prohibit discrimination based on race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, or national origin in various manners. For example, the First Amendment to the *United States Constitution* prohibits discrimination based on ~~religion.~~ *creed or religion.* (*Lee v. Weisman*, 505 U.S. 577, 590 (1992) (explaining that the government cannot violate “the central meaning of the Religion Clauses of the First Amendment, which is that all creeds must be tolerated and none favored.”); *Trinity Lutheran Church of Columbia, Inc. v. Comer*, --- U.S. ---, 137 S. Ct. 2012, 2019-21 (2017) (explaining that the First Amendment prohibits laws that discriminate against or impose unequal treatment on persons based on creed or religion))

1 The Equal Protection Clause of the Fourteenth Amendment to the *U.S. Constitution* also prohibits
2 states and local governments from denying “to any person within its jurisdiction the equal
3 protection of the law.” Equal protection requirements apply to the federal government through the
4 Due Process Clause of the Fifth Amendment to the *U.S. Constitution*. The U.S. Supreme Court has
5 interpreted the Equal Protection Clause as not requiring the government to treat every person the
6 same, but instead as requiring the government to treat persons who are in similar conditions or
7 circumstances, or “similarly situated,” in the same way. (*City of Cleburne v. Cleburne Living Ctr.*,
8 473 U.S. 432, 439 (1985))

9
10 For the purposes of the federal Equal Protection Clause, the U.S. Supreme Court has developed a
11 three-tiered test ~~{for determining}~~ *that courts apply to determine* whether a law that imposes a
12 burden upon or provides a benefit to one class of persons to the exclusion of others is valid.
13 Depending on the classification involved, ~~{the U.S. Supreme Court applies}~~ *courts apply* tests
14 known as strict scrutiny, intermediate scrutiny, or rational basis scrutiny to analyze the
15 government’s justification for the classification. (*City of Cleburne v. Cleburne Living Ctr.*, 473
16 U.S. 432, 439-41 ~~{(1985)}~~ ~~The U.S. Supreme Court applies~~ (1985); *Rico v. Rodriguez*, 121 Nev.
17 695, 703 (2005)) *The Nevada Supreme Court also applies those tests to equal protection*
18 *challenges to the validity of laws under the Nevada Constitution. (*Rico v. Rodriguez*, 121 Nev.*
19 *695, 703 (2005)) Under the three-tiered analysis, courts apply* the strict scrutiny test to laws that
20 classify persons by race, national origin, religion, or alienage or that infringe upon certain
21 fundamental rights. The strict scrutiny test requires the government to prove that the classification
22 is narrowly tailored to serve a compelling government interest. (*Parents Involved in Cmty. Sch. v.*
23 *Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 ~~{(2007)}~~ ~~The U.S. Supreme Court applies~~ (2007);
24 *Tarango v. State Indus. Ins. Sys.*, 117 Nev. 444, 454 (2001)) *Courts apply* the intermediate
25 scrutiny test to laws that classify persons by gender or their status as having been born out of
26 wedlock. The intermediate scrutiny test requires the government to prove that the classification
27 has a substantial relationship to an important government interest. (*United States v. Virginia*, 518
28 U.S. 515, 532-33 ~~{(1996)}~~ (1996); *Olson v. State*, 95 Nev. 1, 3 (1979)) For all other classifications,
29 ~~{the U.S. Supreme Court}~~ *courts* typically ~~{applies}~~ *apply* scrutiny under a rational basis test which
30 only requires the government to demonstrate that the classification is rationally related to a
31 legitimate government interest. (*City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440
32 ~~{(1985)}~~ (1985); *Rico v. Rodriguez*, 121 Nev. 695, 703 (2005))

33
34 Although not certified as part of the *U.S. Constitution*, a proposed amendment is currently pending
35 to the *U.S. Constitution*, which states that “[e]quality of rights under the law shall not be denied or
36 abridged by the United States or by any state on account of sex.” This federal Equal Rights
37 Amendment was passed by a two-thirds majority of Congress in 1973 and ratified by three-fourths
38 of the states in 2020. However, the National Archivist has not ~~{yet}~~ certified the federal Equal
39 Rights Amendment as part of the *U.S. Constitution* pursuant to 1 U.S.C. § 106b as a result of
40 several *unresolved* legal issues ~~{relating to its}~~ *regarding the* ratification process ~~{,}~~ *that are*
41 *subject to ongoing litigation*, including the expiration of ratification deadlines set by Congress
42 and ~~{subsequent rescission}~~ *the passage in several states of* ~~{ratification}~~ *legislative measures*
43 *intended to rescind prior ratifications* by ~~{five states.}~~ *those states. (*Virginia v. Ferriero*, 525 F.*
44 *Supp. 3d 36 (D.D.C. 2021), appeal docketed sub nom. *Illinois v. Ferriero*, No. 21-5096 (D.C.*
45 *Cir. May 7, 2021))* Although Nevada voters rejected ratification of the federal Equal Rights

1 Amendment in an advisory question at the 1978 General Election, the Nevada Legislature ratified
2 the Amendment in 2017. (Senate Joint Resolution No. 2, File No. 13, 79th Session)

3
4 Existing federal statutes also prohibit discrimination based on the classifications enumerated in
5 this ballot measure in various manners. For example, the Religious Freedom Restoration Act of
6 1993 prohibits the federal government from substantially burdening the exercise of religion.
7 (42 U.S.C. §§ 2000bb et seq.) With respect to employment, Title VII of the Civil Rights Act of
8 1964 (42 U.S.C. §§ 2000e et seq.), the Equal Pay Act of 1963 (29 U.S.C. § 206(d)), the Age
9 Discrimination in Employment Act of 1967 (29 U.S.C. §§ 621-634), section 501 of the
10 Rehabilitation Act of 1973 (29 U.S.C. § 791) and Titles I and V of the Americans with Disabilities
11 Act of 1990 (42 U.S.C. §§ 12101 et seq.) prohibit discrimination in employment based on race,
12 color, religion, sex (including sexual orientation, gender identity, and pregnancy), age (40 years or
13 older), disability, ancestry, or national origin. Title IX of the Education Amendments of 1972
14 (20 U.S.C. §§ 1681 et seq.) prohibits discrimination on the basis of sex in educational programs
15 and activities that receive federal funding. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§
16 3601-3609), known as the Fair Housing Act, prohibits housing discrimination based on race, color,
17 national origin, religion, sex (including gender, gender identity, sexual orientation, and sexual
18 harassment), familial status, or disability. Title II of the Civil Rights Act of 1964 (42 U.S.C. §§
19 2000a et seq.) prohibits discrimination on the basis of race, color, religion, or national origin in
20 places of public accommodations. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et
21 seq.) prohibits discrimination on the basis of race, color, or national origin in programs or activities
22 that receive federal funding. These laws are a nonexhaustive listing of the federal laws that prohibit
23 discrimination based on certain classifications.

24
25 The *Nevada Constitution* also prohibits discrimination based on the classifications enumerated in
26 this ballot measure in various manners. For example, Section 4 of Article 1 of the
27 *Nevada Constitution* guarantees the free exercise of religion. In addition, the Nevada Supreme
28 Court has interpreted the requirement in Section 21 of Article 4 of the *Nevada Constitution* that
29 “all laws shall be general and of uniform application throughout the State” to be coextensive with
30 the guarantees of the Equal Protection Clause of the Fourteenth Amendment to the
31 *U.S. Constitution*. (*Laakonen v. District Court*, 91 Nev. 506, 508 (1975)) Furthermore, the U.S.
32 Supreme Court has held that states are free to provide additional constitutional protections beyond
33 those provided by the *U.S. Constitution*. (*California v. Ramos*, 463 U.S. 992, 1014 (1983))

34
35 Existing Nevada statutory law also prohibits discrimination based on the classifications
36 enumerated in this ballot measure in various manners. For example, these *statutory* prohibitions
37 *against discrimination* apply to juvenile rights, eligibility for certain grants, housing assistance,
38 college admission standards, gaming regulations, employment practices, eligibility for
39 apprenticeships, and public accommodations. (See, for example, *Nevada Revised Statutes (NRS)*
40 62B.510, 217.420, 274.140, 281.370, 284.150, 288.270, 319.060, 338.125, 396.530, 463.151,
41 463.4076, 610.020, 610.150, 613.330 and 651.070.) These laws are a nonexhaustive listing of
42 Nevada statutory laws that prohibit discrimination based on certain classifications.

43
44 This ballot measure proposes to amend the *Nevada Constitution* by adding a specific guarantee
45 that equality of rights under the law shall not be denied or abridged by this State or any of its cities,

1 counties, or other political subdivisions based on race, color, creed, sex, sexual orientation, gender
2 identity or expression, age, disability, ancestry, or national origin.

3 4 5 ARGUMENTS FOR PASSAGE 6

7 Equality is a cornerstone of our democracy, but not everyone enjoys full equality. Historically,
8 certain groups have been discriminated against because of their characteristics. One of the most
9 effective ways to help ensure equality is to specifically include protections from discrimination in
10 the *Nevada Constitution*, making them far more difficult to repeal, undermine, or overturn based
11 on the political mood of the day. Approving Question 1 will establish ~~{a strong}~~ *an enduring*
12 commitment to equality for everyone.

13
14 Although some protection against discrimination exists in federal and state law, there are gaps in
15 the existing legal patchwork that have resulted in unavailable or inadequate protection for certain
16 classes of people ~~{}~~ *, including instances of unequal pay for women and pregnancy*
17 *discrimination.* This ballot measure ~~{provides}~~ *fills those gaps by providing* comprehensive state
18 constitutional guarantees of equal treatment under the law for the classifications of race, color,
19 creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, and national
20 origin. ~~{It is essential to approve Question 1 because it fills the gaps by providing broader~~
21 ~~protections than those that currently exist in federal and state law.~~

22
23 ~~Including these protections against}~~ *Contrary to opponents' arguments, religion is one of the*
24 *classifications protected by this ballot measure because courts interpret "creed" to have the*
25 *same meaning as "religion." Therefore, by prohibiting* discrimination ~~{in the Nevada~~
26 ~~Constitution will allow courts}~~ *based on a person's "creed," this ballot measure adds an*
27 *additional layer of constitutional protection for our religious liberties.*

28
29 *Approving Question 1 will also improve outcomes for people in the protected classifications who*
30 *have been discriminated against* in Nevada *by allowing our courts* to apply a heightened level of
31 scrutiny to laws ~~{involving}~~ *or actions of the State or local governments that violate any of the*
32 *protected* classifications ~~{, which}~~ *. This ballot measure* will ~~{require the government to}~~ provide
33 ~~{more substantial justification for such classifications. With these specific protections in the~~
34 ~~Nevada Constitution, courts in Nevada can develop standards for analyzing}~~ *clear guidance to*
35 *courts and lawmakers on Nevada's commitment to protect against* discrimination ~~{that reflect}~~
36 *and advance equality based on* the unique text and history of Nevada's equal rights amendment.

37
38 Do not be misled by opponents' exaggerated and incorrect arguments about Question 1. ~~{They~~
39 ~~argue that this ballot measure will protect abortion rights, erode and destroy women's sports by~~
40 ~~allowing male and transgender athletes to compete unfairly against women and girls, and endanger~~
41 ~~our students' safety in school facilities such as restrooms and locker rooms. First, Nevada law~~
42 ~~already guarantees the right to an abortion and passage of this measure will not change this right.~~
43 ~~Second, the passage of Question 1}~~ *Their arguments consist of unfounded speculation intended*
44 *to distract from the clear goal of this ballot measure, which is to ensure equality. This ballot*
45 *measure will not diminish the rights of some people at the expense of others but, instead, will*
46 *advance equality for all by filling the gaps in existing protections. Additionally, this ballot*

1 *measure* will not ~~remove the State's ability to ensure competitive balance in school sports.~~
2 ~~Finally, it~~ *eliminate the authority of the State and local governments to protect classifications*
3 *of people, including children and other vulnerable populations, who have always been entitled*
4 *to such protections. Governmental entities* will ~~not prevent schools from having separate~~
5 ~~facilities for boys and girls.~~ *still be able to pass laws or take actions to protect classifications of*
6 *people but will have to honor Nevada's constitutional commitment to equality when doing so.*

7
8 Everyone deserves to be treated equally under the law. Vote "Yes" on Question 1.
9

10 11 **ARGUMENTS AGAINST PASSAGE**

12
13 ~~[Question 1 is legally redundant and unnecessary. There is no need to amend the Nevada~~
14 ~~Constitution to specifically provide equality of rights under the law when federal and state law~~
15 ~~already prohibit discrimination on the basis of sex and certain other classifications. Further, when~~
16 ~~a person has been discriminated against, that person has existing legal remedies. Therefore,~~
17 ~~approval of Question 1 is not necessary.]~~

18 *Proponents fail to acknowledge how harmful and dangerous Question 1 will be to individual*
19 *liberties and safety. They state that this ballot measure will protect against religious*
20 *discrimination based on a person's "creed" or religion. But they fail to explain how this ballot*
21 *measure can give new constitutional protections to classifications such as sex, sexual*
22 *orientation, and gender identity or expression and, at the same time, actually protect the*
23 *religious liberties of individuals who hold traditional views on marriage and gender and want*
24 *to live according to those values.*

25
26 *Question 1 will also be used by proponents to support access to abortion. Already, the highest*
27 *courts in some states have interpreted their constitutional equal rights provisions to mandate*
28 *taxpayer funding of medically necessary abortions through Medicaid. If Question 1 is approved,*
29 *proponents will use this ballot measure as a basis to demand taxpayer funding of abortions in*
30 *Nevada. And if the U.S. Supreme Court overturns Roe v. Wade, proponents will use this ballot*
31 *measure as a basis to claim abortion rights in Nevada despite the Supreme Court's decision.*

32
33 *Further, Question 1 will be used by biological males and transgender athletes as a basis to*
34 *undermine women's sports by demanding equal rights that allow them to compete unfairly*
35 *against women and girls in school sports and for athletic scholarships. Question 1 will also be*
36 *used to challenge the traditional separation of men's and women's restrooms and locker rooms*
37 *in government-owned facilities, such as public schools, universities and colleges, potentially*
38 *allowing biological men and women in each other's restrooms and locker rooms and*
39 *threatening everyone's personal safety and privacy.*

40
41 In 1978, Nevadans overwhelmingly voted against the proposed Equal Rights Amendment to the
42 U.S. Constitution, which was limited to protecting against discrimination on account of sex. If
43 passed, Question 1 would dramatically expand the equal rights protected specifically in the
44 Nevada Constitution beyond sex to include a total of ten classifications. ~~[No other state has a~~
45 ~~comparable constitutional provision protecting equal rights.]~~ *However, this ballot measure*
46 *contains no provisions to guide courts in resolving conflicts among the protections provided to*

1 *all of these classifications. For instance, there is no way to know how courts would resolve*
2 *challenges to existing age-based laws regarding sexual consent, child endangerment, and*
3 *parental consent and notification, some of which involve classifications based on both age and*
4 *sex. No other state has implemented such a broad and legally untested constitutional provision*
5 *protecting equal rights, and Nevada should not be the first state to do so.*

6
7 Enshrining *such* broad *and untested* equal rights language into the *Nevada Constitution* will make
8 it difficult to fix its inevitable unintended consequences. Approval of Question 1 will result in a
9 flood of litigation, clogging our court system because of its vague and expansive language. Further,
10 because Question 1 cements this language into the *Nevada Constitution*, it will require another
11 lengthy constitutional amendment process to undo its negative effects.

12
13 ~~[Proponents are trying to hide the true purpose of this ballot measure. Approving Question 1 will~~
14 ~~protect abortion rights, negatively affect women's sports, and endanger our students' safety. First,~~
15 ~~the highest courts in some states have used their equal rights constitutional provisions to mandate~~
16 ~~taxpayer funding of medically necessary abortions through Medicaid. Additionally, if the federal~~
17 ~~courts overturn the protection for abortion rights under the U.S. Constitution, the equal rights~~
18 ~~guarantees contained in this ballot measure could be used as grounds to protect abortion rights in~~
19 ~~Nevada. Second, this ballot measure will erode and destroy women's sports by allowing biological~~
20 ~~male and transgender athletes to compete unfairly against women and girls. Finally, this ballot~~
21 ~~measure will endanger our students' safety by allowing separate restrooms and locker rooms for~~
22 ~~boys and girls to be eliminated.]~~

23
24 This ballot measure is ~~[unnecessary]~~ *harmful* and misguided. Vote "No" on Question 1.
25
26

27 FISCAL NOTE

28 Financial Impact—Cannot be Determined

29
30
31 If approved, Question 1 would amend the *Nevada Constitution* to specify that equality of rights
32 under the law shall not be denied or abridged by this State or any of its cities, counties, or other
33 political subdivisions on account of race, color, creed, sex, sexual orientation, gender identity or
34 expression, age, disability, ancestry, or national origin. It is not anticipated that passage of this
35 ballot measure would result in immediate increases in expenditures for the State or local
36 governments. However, it is not possible to predict whether the future application of Question 1
37 will require additional fiscal resources by the State or local governments. Therefore, any potential
38 financial impacts on the State or local governments relating to the application of Question 1 cannot
39 be determined with any reasonable degree of certainty.