IN THE SUPREME COURT OF THE STATE OF NEVADA

DAILYPAY, INC., A DELAWARE CORPORATION; NEVADANS FOR FINANCIAL CHOICE, A NEVADA POLITICAL ACTION COMMITTEE; CHRISTINA BAUER, AN INDIVIDUAL; ACTIVEHOURS, INC., A DELAWARE CORPORATION; STACY PRESS, AN INDIVIDUAL; PREFERRED CAPITAL FUNDING NEVADA, LLC, A NEVADA LIMITED LIABILITY COMPANY; AND ALLIANCE FOR RESPONSIBLE CONSUMER LEGLA FUNDING, AN ILLINOIS NONPROFIT CORPORATION,
Appellants,
vs.

FRANCISCO V. AGUILAR, IN HIS OFFICIAL CAPAITY AS NEVADA SECRETARY OF STATE; KATE FELDMAN, AN INDIVIDUAL; AND STOP PREDATORY LENDING NV, A NEVADA NONPROFIT CORPORATION
Respondents.

Electronically Filed
May 17 2024 12:20 PM
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No: 88557
District Court Case No.:
Lead Case No.: 24 OC 00018 1B
Consolidated With:

Case No.: 24 OC 00021 1B
Case No.: 24 OC 00023 1B
Case No.: 24 OC 00029 1B

DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

Revised December 2015

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See* KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District: First Judicial District Court Department: 2

County: Carson City Judge: Hon. William A. Maddox

District Ct. Case Nos.: 24 OC 00018 1B (Consolidated With: Case No.: 24 OC 00021 1B; Case No.: 24 OC 00023 1B; and Case No.: 24 OC 00029 1B

2. Attorneys filing this docketing statement:

Attorneys: J. Malcolm DeVoy, Esq., Matt Morris, Esq. Tel.: (775) 327-3000

Firm: Holland and Hart LLP

Address: Holland & Hart LLP
5470 Kietzke Lane, Ste. 100,
Reno, Nevada 89511
jmdevoy@hollandhart.com
mcmorris@hollandhart.com

Client: DailyPay, Inc.

3. Attorney(s) representing respondent(s):

Attorneys: Bradley Schrager, Esq., Daniel Brady, Esq. Tel.: (702) 996-1724

Firm: Bravo Schrager LLP

Address: 6675 South Tenaya Way, Ste. 200, Las Vegas, Nevada 89113

Clients: Respondents, Kate Feldman and Stop Predatory Lending NV

4. Nature of disposition below (check all that apply):

- ☐ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☐ Summary judgment
- ☐ Default judgment
- ☐ Grant/Denial of NRCP 60(b) relief
- ☒ Grant/Denial of injunction
- ☐ Grant/Denial of declaratory relief
- ☐ Review of agency determination
- ☐ Dismissal:
  - ☐ Lack of jurisdiction
  - ☐ Failure to state a claim
  - ☐ Failure to Prosecute
  - ☐ Other (specify):_____
- ☐ Divorce Decree
  - ☐ Original ☐ Modification
- ☒ **Other disposition (specify):** Ballot measure matter: Ballot Initiative Petition challenge denied, request for injunction denied, and final judgment entered.

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Feldman v. Aguilar, et al., Case No. 88526

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Consolidated Matters:

DailyPay, Inc. v. Aguilar, 24 OC 00021 1B;

Nevadans for Financial Choice v. Kate Feldman, 24 OC 00018 1B;

Preferred Capital Funding Nevada LLC v. Aguilar, 24 OC 00023 1B; and

ActiveHours, Inc. v. Kate Feldman, 24 OC 00029 1B

8. Nature of the action. Briefly describe the nature of the action and the result below:

Appellant DailyPay, Inc. challenged Initiative Petitions S-01-2024 and S-03-2024 in district court on single-subject and description-of-effect grounds under NRS 295.061. DailyPay argued both Petitions violated statutory procedural rules that govern ballot initiatives under NRS Chapter 295, that the Petitions unconstitutionally failed to account for fiscal impacts, and unconstitutionally failed to include the full text of the measure proposed. DailyPay requested the district court enjoin both Petitions from being circulated for signatures. Other parties filed similar challenges, each of which were consolidated for efficiency and judicial economy, despite distinct substantive arguments raised in each individual challenge.

On April 15, 2024, the district court declared that Petition S-03-2024 was valid and complied with NRS 295's single-subject and description-of-effect rules, allowing the Petition to proceed to the signature-gathering phase.

DailyPay's appeal timely follows.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

1. Whether the district court erred in concluding Petition S-03-2024 complied with NRS 295.009's single-subject rule;

2. Whether the district court erred in concluding Petition S-03-2024's description of effect satisfied NRS 295.009;

3. Whether the district court erred in concluding Petition S-03-2024 includes the full text of the proposed measure under Nev. Const. Art. 4, Sec;. 17 and Art. 19, Sec. 3.

4. Whether the district court erred in determining Petition S-03-2024 does not propose an unaccounted-for fiscal impact under Nev. Const., Art. 19, Sec. 6

5. Whether the district court erred in determining Petition S-03-2024 is not an effective referendum seeking to repeal SB 290 (Nev. 2023) (codified at NRS Chapter 604D).

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Feldman v. Aguilar, Case No. 88526, concerns the district court's order on a related Petition S-01-2024, which DailyPay and others challenged, and which the district court properly held violates NRS 295.009's procedural rules.

Fleischmann v. Aguilar, Case No. 88307, concerns a ballot issue's purported unfunded mandate and description of effect. The case has been submitted for decision as of May 8, 2024.

Washington v. Nevadans for Reproductive Freedom, Case No. 88144, concerns a ballot issue's description of effect, purported unfunded mandate, and single-subject compliance. Briefing is ongoing.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s)):

☒ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☒ An issue of public policy

☒ An issue where *en banc* consideration is necessary to maintain uniformity of this court's decisions

☒ A ballot question

If so, explain:

This is a ballot measure challenge arising under NRS 295.061 and the Nevada Constitution's rules and procedures governing ballot measures under Article 19 (and related constitutional rules governing legislative measures). The district court improperly allowed a confusing and inaccurate Petition measure seeking to effectively repeal recently passed legislation to proceed to the signature-gathering phase. *En banc* consideration is necessary to maintain uniformity of this Court's decisions on single-subject rules and related issues under NRS Chapter 295, as well as the Nevada Constitution's "full text" requirement and related ballot measure issues.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circum- stance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This matter is presumptively assigned to the Supreme Court under NRAP 17(a)(2) because it involves a ballot or election question.

14. Trial. If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? N/A

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from Apr. 15, 2024

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served Apr. 16, 2024

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. *See* AA Primo Builders v. Washington, 126 Nev., 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion

(c) Date written notice of entry of order resolving tolling motion was served

Was service by:

☐ Delivery

☐ Mail/electronic

19. Date notice of appeal filed April 26, 2024

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☒ NRAP 3A(b)(1)	☐ NRS 38.205
☐ NRAP 3A(b)(2)	☐ NRS 233B.150
☐ NRAP 3A(b)(3)	☐ NRS 703.376

☐ Other (specify) NRAP 3A(b)(1)

(b) Explain how each authority provides a basis for appeal from the judgment or order:

The district court entered a final judgment in an action or proceeding commenced in the district court in which the judgment is rendered.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties: DailyPay, Inc., Kate Feldman, Stop Predatory Lending NV, Nevadans for Financial Choice, Christina Bauer, Hon. Francisco Aguilar, Preferred Capital Funding Nevada LLC, Alliance for Responsible Consumer Legal Funding, ActiveHours, Inc. and Stacy Press.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

N/A

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Each party challenges the Petition based on NRS 295.009's single-subject and description of effect requirements.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (*e.g.*, order is independently appealable under NRAP 3A(b)):

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims

- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross- claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

DailyPay, Inc.	J. Malcolm DeVoy & Matt Morris
Name of Appellant	**Name of Counsel of Record**
May 17, 2024	
Date	**Signature of counsel of record**
Nevada, Clark County	
State and county where signed	

CERTIFICATE OF SERVICE

I certify that on May 17, 2024, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Bradley S. Schrager, Esq.
Daniel Bravo, Esq.
BRAVO SCHRAGER LLP
6675 South Tenaya Way, Suite 200 Las Vegas, Nevada 89113

Attorneys for Respondents Kate Feldman and Stop Predatory Lending NV

Laena St-Jules, Esq.,
OFFICE OF THE ATTORNEY GENERAL
100 N. Carson Street
Carson City, Nevada 89701

Attorney for Respondent Francisco V. Aguilar

///

Todd L. Bice, Esq.
Jordan T. Smith, Esq.
Daniel R. Brady, Esq.
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101

Attorneys for Appellant Nevadans for Financial Choice and Christina Bauer

Severin A. Carlson, Esq.
Sihomara L. Graves, Esq.
KAEMPFER CROWELL
50 West Liberty Street,
Suite 1100
Reno, NV 89501

Attorneys for Activehours, Inc. and Stacy Press

Michael R. Kalish, Esq.
Joshua H. Reisman, Esq.
Elizabeth M. Sorokac, Esq.
REISMAN SOROKAC
8965 S. Eastern Ave #382
Las Vegas, NV 89123

Attorneys for Alliance for Responsible Consumer Legal Funding & Preferred Capital Funding Nevada, LLC

DATED MAY 17, 2024

Valerie Larsen

Signature

Todd L. Bice, Esq., Bar No. 4534
TLB@pisanellibice.com
Jordan T. Smith, Esq., Bar No. 12097
JTS@pisanellibice.com
Daniel R. Brady, Esq., Bar No. 15508
DRB@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Attorneys for Plaintiffs

RECD & FILED
2024 JAN 26 PM 12:06
WILLIAM SCOTT HOEN
CLERK
BY K. PETERSON
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an Individual,

Plaintiffs,

v.

KATE FELDMAN, an individual, and FRANCISCO AGUILAR, in his official capacity as Nevada Secretary of State,

Defendants.

Case No.: 24OC00061B

Dept. No.: II

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CONCERNING STATEWIDE BALLOT INITIATIVE

(Priority Matter Under NRS 295.061)

Arbitration Exemption: Declaratory and Injunctive Relief

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

Plaintiffs Nevadans For Financial Choice, PAC and Christina Bauer bring this complaint for declaratory and injunctive relief against Defendants Kate Feldman and Francisco Aguilar, in his official capacity as the Nevada Secretary of State, pursuant to NRS 295.009, 30.030 and 33.010. Plaintiffs allege as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to NRS 295.061 as this is a challenge to a statewide ballot initiative. Furthermore, the Court has jurisdiction to grant declaratory and injunctive relief under NRS 30.030 and 33.010.

2. Venue is proper under NRS 295.061(1) which specifies that this challenge shall be filed in the First Judicial District Court.

Docket 88557 Document 2024-17423

PARTIES

3. Plaintiff Nevadans For Financial Choice is a Nevada Political Action Committee duly registered in the State of Nevada.

4. Plaintiff Christina Bauer is a registered voter and resident of the State of Nevada.

5. Defendant Kate Feldman is, upon information and belief, a resident of the State of Nevada and on January 5, 2024, filed with the Nevada Secretary of State a statewide ballot measure which she deceptively characterized as "Preventing Predatory Payday and Other Loans Act" (the "Initiative").

6. Defendant Francisco Aguilar is the Nevada Secretary of State and is named in his official capacity. As the Secretary, Mr. Aguilar is responsible for the execution and enforcement of Nevada's election laws. His duties include qualifying initiatives for submission to the Nevada Legislature and to disqualify those that are invalid under Nevada law.

COMMON FACTUAL ALLEGATIONS

7. On January 5, 2024, Defendant Feldman filed the Initiative S-01-2024 with the Nevada Secretary of State. A true and correct copy of the Notice of Intent to Circulate Statewide Initiative associated with S-01-2024 is attached hereto as Exhibit 1.

8. The Initiative seeks to add a new Chapter 604D to the Nevada Revised Statutes amending a multitude of existing statutory chapters.

9. While the Initiative purports to be focused upon what it characterizes as "payday loans," in actuality its sweeping breadth covers a wide range of financial transactions. Indeed, the Initiative's Section 8 lists nearly ten different distinct categories of financial transactions with a final catch-all provision declaring that it also applies to any "loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered, or holding a certificate of authorization to do business under the laws of this State."

10. Without ever using the term, what the Initiative really seeks to impose is a "usury" law – contrary to existing Nevada law – on wholly distinct and different financial transactions. On top of that, it purports to have Nevada opt out of the "Depository Institutions Deregulation and Monetary Control Act of 1980."

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

11. Then, in Section 15, the Initiative creates an exemption until January 1, 2030, for "entities licensed under the laws of this State to provide earn wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023) . . . ."

12. Of course, none of these discreet subjects is disclosed anywhere in the Initiative's statutory-mandated description of effect.

13. Rather, the very first paragraph of the Initiative misleads Nevada citizens, declaring:

> Section 2. Liberal Construction. *The provisions of this Chapter shall be liberally construed to achieve its purpose, which are combating predatory payday lending and other high cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates on Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

14. In actuality, this assertion is deceptive. The Initiative applies to virtually all types of loans and has nothing to do with protecting Nevada lenders from out-of-state entities or competition. This Initiative misleads the public by pretending that it is directed at what it characterizes as only certain "predatory payday" loans: - whatever that is supposed to mean – when in fact it is designed to apply to wide swaths and distinct forms of financial transactions throughout the State.

15. On top of that, the Initiative's Section 17 would provide a wholesale change to NRS 21.105, which governs writs of execution and writs of garnishment in the State of Nevada. This distinct aspect of the Initiative purports to eliminate a number of specific exemptions for these writ proceedings, and then proposes to increase the financial size of a singular exemption by more than ten times the existing level adopted by the Nevada Legislature.

16. In Section 18, the Initiative would then amend NRS 21.090 to increase the amount of the statutory exemption for disposable earnings, and then adjust that exemption for inflation.

17. The various distinct forms of financial transactions within the reach of this Initiative, and the specified exemptions to it, are not related to or germane to a single subject matter as NRS 295.009(1)(a) requires.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

18. Nor are the provisions dealing with changing Nevada's laws governing writs of execution or garnishment related to or germane to the other provisions of the Initiative. Rather, each is a separate and distinct subject matter under NRS 295.009(1)(a).

19. This last point is confirmed by the Initiative's proposed description of effect under NRS 295.009(1)(b), which confesses the single-subject violation:

DESCRIPTION OF EFFECT

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions (payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.
>
> Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

20. As the first sentence makes clear, the Initiative embraces more than one subject "by establishing maximum interest rates charged to consumers, ***and*** shields more of people's savings and earnings from garnishment than under current law." (Emphasis added.)

21. The Initiative's description is also deficient in that it fails to accurately describe for voters just what the Initiative would actually do if enacted. Tellingly, it omits many of its provisions, including its proposal for opting out of federal law.

FIRST CAUSE OF ACTION

(NRS 295.009(1)(a))

22. Plaintiff incorporates the allegations of Paragraph 1 through 21 as though fully set forth herein.

23. Pursuant to NRS 295. 009(1)(a), an initiative petition must embrace "but one subject and matters necessarily connected therewith and pertaining thereto." To satisfy this requirement,

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

the parts of the proposed initiative must be "functionally related and germane to each other in a way that provides efficient notice of the general subject of, and the interest likely to be effected by, the proposed initiative or referendum." NRS 295.009(2).

24. The Initiative violates Nevada's single-subject rule by incorporating more than one subject matter.

25. Accordingly, the Initiative is invalid and must be stricken, and the Secretary of State should be enjoined from taking any further action upon it.

SECOND CAUSE OF ACTION

(NRS 295.009(1)(b))

26. Plaintiff incorporates the allegations of Paragraph 1 through 25 as though fully set forth herein.

27. NRS 295.009(1)(b) specifies that an initiative must "set forth, in no more than 200 words, a description of effect of the initiative or referendum if the initiative or referendum is approved by the voters." Nevada law precludes any description that is deceptive or misleading. Nevada law mandates that the description explain the ramifications of the purposed initiative so that voters can make an informed decision.

28. Beyond embracing more than one subject matter, the Initiative's description is deficient because it is deceptive and misleading, and fails to inform voters of essential information regarding the Initiative's effects. It purports to impose a sweeping "usury" provision into Nevada law without ever so specifying. It furthermore deceptively tells voters that it concerns so-called "payday loans," when in fact the Initiative is much broader and includes a host of various and common financing arrangements.

29. The description of the Initiative also fails to inform voters of the exemptions to federal law and similar effects of the Initiative.

30. Accordingly, the Initiative is invalid and should be stricken, with the Secretary of State and Defendant Feldman enjoined from taking any further action upon it.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. A declaration that the Initiative is invalid under NRS 295.009 by violating the single-subject rule;

2. A declaration that the Initiative is invalid and does not comply with NRS 295.009(1)(b) because the description of effect is deficient;

3. An injunction prohibiting the Secretary of State from taking further action on the Initiative;

4. An injunction prohibiting Defendant Feldman and her agents from circulating this defective petition for verification; and

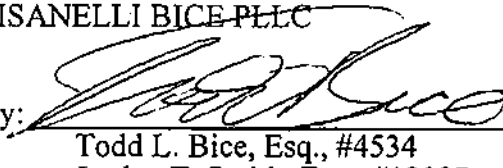
5. Such further and additional relief that this Court deems appropriate.

6. AFFIRMATION

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

DATED this 26th day of January, 2024.

PISANELLI BICE PLLC

By: 

Todd L. Bice, Esq., #4534
Jordan T. Smith, Esq., #12097
Daniel R. Brady, Esq., #15508
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for Plaintiffs

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

EXHIBIT 1

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman _____ 1/4/2024

Signature of Petition Filer **Date**

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in ***italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business

under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9*

of this chapter, a person shall be subject to the requirements of this chapter notwithstanding the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees, ***provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes.*** The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), and is, or was at the time of the covered service

member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

Section 17. NRS 21.105 is hereby amended to read as follows:

~~[1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, $2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:~~

~~(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;~~

~~(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;~~

~~(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;~~

~~(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;~~

~~(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;~~

~~(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;~~

~~(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;~~

~~(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;~~

~~(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;~~

~~(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;~~

~~(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;~~

~~(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;~~

~~(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and~~

~~(n) Benefits provided pursuant to any other federal law.]~~

1[~~2~~]. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor [~~and the provisions of subsection 1 do not apply,~~] $*5,000* [~~400~~] or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor, unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.

2[~~3~~]. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 [~~or 2, as applicable~~].

3[~~4~~]. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1[~~ or 2~~].

4[~~5~~]. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection [1 ~~or 2~~] includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

5[6]. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination.[~~, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money.~~] If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

6[~~7~~]. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Section 18. NRS 21.090 is hereby amended to read as follows:

1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, ***$850 of disposable earnings. If the debtor's weekly disposable earnings exceed $850, 90% of disposable earnings in excess of $850 shall be exempt from garnishment unless the weekly disposable earnings of the debtor exceed $1,200, in which case 85% of the disposable earnings in excess of $850 shall be exempt from garnishment. The amount not subject to garnishment is exempt.*** ~~[82 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued was $770 or less, 75 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued exceeded $770, or 50 times the minimum hourly wage prescribed by section 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and in effect at the time the earnings are payable, whichever is greater.]~~ Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor. ***Compensation paid or payable for personal services is earnings regardless of whether the judgment debtor is classified as an independent contractor or an employee.***

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all

furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including:

(1) Subject to the provisions of NRS 115.055, the sum of $605,000 that is paid to the defendant in execution pursuant to subsection 2 of NRS 115.050 or to a spouse pursuant to subsection 3 of NRS 115.050; and

(2) A homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $605,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $1,000,000 in present value, held in:

(1) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(2) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(3) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former

spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $10,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101 et seq., do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

4. The exemptions set forth in this section and NRS 21.105 shall be automatically adjusted to reflect changes by the percentage change, if any, from January 1st to December 31st of the preceding year in the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, beginning the April 1 following enactment and every 3 years thereafter. The Nevada Department of Business & Industry shall publish the 1-year adjustment for an effective date of April 1st for the following year. Adjustments made pursuant to this paragraph must be rounded up to the next $10.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

Todd L. Bice, Esq., Bar No. 4534
TLB@pisanellibice.com
Jordan T. Smith, Esq., Bar No. 12097
JTS@pisanellibice.com
Daniel R. Brady, Esq., Bar No. 15508
DRB@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Attorneys for Plaintiffs

REC'D & FILED
2024 JAN 26 PM 12:07
WILLIAM SCOTT HOEN
K. PETERSON
BY _____ DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an Individual,

Plaintiffs,

v.

KATE FELDMAN, an individual, and FRANCISCO AGUILAR, in his official capacity as Nevada Secretary of State,

Defendants.

Case No.: 24 OC 00018 1B

Dept. No.: II

BRIEF IN SUPPORT OF COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CONCERNING STATE-WIDE BALLOT INITIATIVE

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

I. INTRODUCTION

Pursuant to NRS 295.061, Plaintiffs Nevadans for Financial Choice and Christina Bauer submit this brief in support of their challenge to the proposed state-wide ballot initiative styled as "Preventing Predatory Payday and Other Loans Act" (the "Initiative") filed with the Nevada Secretary of State as S-01-2024 on January 5, 2024. The Initiative is invalid as it violates the procedural requirements under NRS 295.009(1)(a) by embracing more than a single subject. The Initiative also violates NRS 295.009(1)(b) because it proposes a description of effect that is misleading and fails to inform voters of essential information. Both of these fatal defects render the Initiative invalid, and Nevada law directs the issuance of declaratory and injunctive relief to preclude the Secretary of State and the Initiative's proponent, Defendant Kate Feldman ("Feldman"), from taking any further action on this defective initiative.

Docket 88557 Document 2024-17423

II. THE PROPOSED INITIATIVE

On January 5, 2024, Defendant Feldman filed the Initiative S-01-2024 with the Nevada Secretary of State. A true and correct copy of the Notice of Intent to Circulate Statewide Initiative associated with S-01-2024 is attached hereto as Exhibit 1. The Initiative seeks to add a new Chapter 604D to the Nevada Revised Statutes amending a multitude of existing statutory chapters.

While the Initiative purports to be focused upon what it characterizes as "payday loans," in actuality its sweeping breadth covers a wide range of different financial transactions. Indeed, the Initiative's Section 8 lists nearly ten distinct categories of financial transactions with a final catch-all provision declaring that it also applies to any "loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered, or holding a certificate of authorization to do business under the laws of this State." (Ex. 1 at § 8.)

Without ever using the term, what the Initiative really proposes is a sweeping "usury" law – contrary to existing Nevada law – on wholly distinct and different financial transactions. On top of that, it purports to have Nevada opt out of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980." Then, in Section 15, the Initiative creates an exemption until January 1, 2030, for "entities licensed under the laws of this State to provide earn wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023) . . . ." Of course, none of these discreet subjects are disclosed anywhere in the Initiative's statutory-mandated description of effect.

Rather, the very first paragraph of the Initiative misleads Nevada citizens, declaring:

> Section 2. Liberal Construction. *The provisions of this Chapter shall be liberally construed to achieve its purpose, which are combating predatory payday lending and other high cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates on Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

(Ex. 1 at § 2.) In reality, this assertion is deceptive. The Initiative applies to virtually all types of loans and has nothing to do with protecting Nevada lenders from out-of-state entities or competition. This Initiative misleads the public by pretending that it is directed at what it characterizes as only certain "predatory payday" loans – whatever that is supposed to mean – when

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

in fact it is designed to apply to wide swaths and distinct forms of financial transactions throughout the State.

On top of that, the Initiative's Section 17 would provide a wholesale change to NRS 21.105, which governs writs of execution and writs of garnishment in the State of Nevada. That statute has nothing to do with any form of "loans." This distinct aspect of the Initiative purports to eliminate a number of specific exemptions for these writ proceedings, and then proposes to increase the financial size of a singular exemption by more than ten times the existing level adopted by the Nevada Legislature. (Ex. 1, § 17.) In Section 18, the Initiative would then amend NRS 21.090 to increase the amount of the statutory exemption for disposable earnings, and thereafter adjust that exemption for inflation. *Id.* at § 18. The various distinct forms of financial transactions within the reach of this Initiative, and the specified exemptions to it, are not related to or germane to a single subject as NRS 295.009(1)(a) requires.

Nor are the provisions dealing with changing Nevada's laws governing writs of execution or garnishment related to or germane to the Initiative's other provisions. Rather, the Initiative's Section 17 is a separate and distinct subject matter under NRS 295.009(1)(a). The other sections deal with varied and distinct types of loans while Section 17 deals with collection mechanisms for debts or judgments. This last point is confirmed by the Initiative's proposed description of effect under NRS 295.009(1)(b) which provides:

DESCRIPTION OF EFFECT

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions (payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

> Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

(Ex. 1 at p. 19.) Again, as the first sentence makes clear, the Initiative embraces more than one subject, "by establishing maximum interest rates charged to consumers, ***and*** shields more of people's savings and earnings from garnishment than under current law." (*Id.* (emphasis added).) The Initiative's description is also deficient in that it fails to accurately describe for voters just what the Initiative would actually do, if enacted. Tellingly, it omits many of its provisions, including its proposal for opting out of federal law.

III. LEGAL ANALYSIS

Nevada law authorizes challenges to any proposed initiative when it embraces more than one subject and when the description of effect fails to comply with Nevada law. Specifically, NRS 295.061 specifies that "whether an initiative or referendum embraces but one subject and matters necessarily connected therewith and pertaining thereto, and the description of the effect of an initiative or referendum required pursuant to NRS 295.009, may be challenged by filing a complaint in the First Judicial District Court . . . ."

A. The Initiative Violates Nevada's Single-Subject Rule.

Nevada law mandates that any proposed initiative "[e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto." NRS 295.009(1)(a). As the Legislature specifies, an initiative "embraces but one subject and matters necessarily connected therewith and pertaining thereto if the parts of the proposed initiative or referendum are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interest likely to be affected by, the proposed initiative or referendum." NRS 295.009(2).

In upholding this single-subject requirement, the Nevada Supreme Court has explained that NRS 295.009 "facilitates the initiative process by preventing the petition drafters from circulating confusing petitions that address multiple subjects." *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006). The single-subject rule "helps both in promoting informed decisions and in preventing the enactment of unpopular provisions by attaching

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

them to more attractive proposals or concealing them in lengthy, complex initiatives (*i.e.*, logrolling)." *Las Vegas Taxpayer Accountability Comm. v. City Council of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 437 (2009). After all, unlike other "means of enacting law, the initiative process typically does not allow for input in drafting proposed laws." *Id.*, 125 Nev. at 177 n. 6, 208 P.3d at 437 n.6 (citing *In Fine v. Firestone*, 448 So.2d 984, 988 (Fla.1984)).

"In considering single-subject challenges, the court must first determine the initiative's purpose or subject and then determine if each provision is functionally related and germane to each other and the initiative's purpose or subject." *Helton v. Nevada Voters First PAC*, 138 Nev. Adv. Op. 45, 512 P.3d 309, 314 (2022). To determine an initiative's "overall subject," this Court examines the text of the initiative on its face, as well as the arguments made by the initiative's proponents. *Id.* If no single subject is ascertainable, the initiative necessarily violates NRS 295.009(2). *Las Vegas Taxpayer*, 125 Nev. at 181-82, 208 P.3d at 439. And importantly, the proponents of an initiative "may not circumvent the single-subject rule by phrasing the proposed law's purpose or object in terms of 'excessive generality'" so as to group a number of unrelated provisions together. *Id.*

Here, this Initiative violates Nevada's single-subject rule in multiple ways. Indeed, the very first sentence of the description of effect admits as much. As it says, the Initiative embraces at least two subjects "by establishing maximum interest rates charged to consumers, ***and*** shields more of people's savings and earnings from garnishment than under current law." (Ex. 1 at p.19 (emphasis added).) The Initiative's provisions concerning changing Nevada's laws for writs of execution and garnishment – NRS Chapter 21 – have no nexus to the Initiative's other supposed purpose of establishing maximum interest rates. One simply has nothing to do with the other and is certainly not "functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interest likely to be affected by," the proposed Initiative. NRS 295.009(2). Tellingly, the Initiative's proposed new NRS Chapter 604D has no relationship to NRS Chapter 21, nor does it say anything about it. The Initiative's proponent has simply joined discreet subjects into a single initiative.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

But that is hardly the end of the Initiative's single-subject violations. Even the Initiative's other sections – proposing to add a new Chapter 604D to the Nevada Revised Statutes – actually proposes to change a multitude of existing statutory chapters. Apparently hoping that it will garner voter support, the Initiative purports to be focused on what it characterizes as payday loans. (Ex. 1 at § 1.) Indeed, that is the focus of its title. (*Id.*) But, in actuality, the Initiative covers a wide range of common financial transactions. Again, in Section 8, the Initiative lists nearly ten different distinct categories of financial transactions, plus a catch-all provision declaring that it also applies to any "loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered, or holding a certificate of authorization to do business under the laws of the State." (*Id.* at § 8.) These distinct financial transactions are not functionally related and germane to each other, as made clear by the Initiative's other provisions and its focus on so-called payday loans/lenders.

Indeed, throughout the provisions, the Initiative makes clear that so-called "payday" loans are distinct from the numerous other categories of financial transactions the Initiative purports to reach. After all, the Initiative distinguishes between "payday" loans and other types of loans/transactions, confirming their difference. (*See* Ex. 1 at § 7 ("This chapter applies to any payday lender **or other person** . . . ."); § 9 ("No payday lender **or other person** . . . ."); § 10 ("No payday lender **or other person** . . . ."); § 12 ("Prohibition against facilitation of payday loans **or other transactions** . . . ."); § 13 ("Remedies for payday loans **or other transactions** . . . .") (emphasis added). And, as the Initiative's Section 8 specifies, it implicates a host of different financial transactions governed by multiple different chapters of the Nevada Revised Statutes. *See* Ex. 1 at § 8(7) (installment loans under Chapter 675); § 8(8) (retail installment transactions under NRS Chapter 97); § 8(9) (life insurance or annuity contracts under NRS Chapter 688).) Plus, as noted, the Initiative then includes the catch-all (§ 8(10)) for any "loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state."

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

The Initiative misleads voters by joining a particular type of loan – so-called payday loans – with all other types of financing transactions so as to logroll voters into supporting a sweeping usury statute (without ever using that word) under the guise of regulating "payday" loans. This is classic logrolling and misdirection. *See Nevadans for Prop. Rights*, 122 Nev. at 922, 141 P.3d at 1254 (Hardesty, J., concurring and dissenting) (explaining that logrolling occurs when separate provisions are combined into one petition because one or both may not have enough support to pass without the others).

Further underscoring the multitude of subjects, the Initiative's proposed Section 14 provides a declaration of intent to opt out of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980." (Ex. 1 at § 14.) Similarly, the Initiative's Section 15 creates an exemption prior to January 1, 2030, for "entities licensed under the laws of this state to provide earned wage access services. Again, these provisions are not functionally related to germane to each other on the face of the Initiative. By all appearances, the Initiative's proponent has merely cobbled together a wish list of wants under the generic subject of "financial transactions" which is too vague/general to satisfy Nevada's single-subject requirement.

B. The Initiative's Description of Effect Violates NRS 295.009(1)(b).

Besides the single-subject violations, the Initiative's proposed description of effect is also deficient. NRS 295.009(1)(b) mandates that every proposed initiative "[s]et forth, in no more than 200 words, a description of the effect of the initiative or referendum if the initiative or referendum is approved by the voters." The purpose of this requirement is to "prevent voter confusion and promote informed decisions." *Nevadans for Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006). "The importance of the description of effect cannot be minimized, as it is what the voters see when deciding whether to even sign a petition." *Coalition for Nevada's Future v. RIP Commerce Tax, Inc.*, 132 Nev. 956 (2016) (unpublished disposition). Thus, the description "must be a straightforward, succinct, and nonargumentative summary of what the initiative is designed to achieve and how it intends to reach those goals." *Educ. Initiative PAC Comm. to Protect Nev. Jobs,* 129 Nev. 35, 37, 293 P.3d 874, 876 (2013).

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

Here again, Plaintiffs easily meet their burden of showing that the description of effect is statutorily inadequate. The proposed description is not a straightforward, succinct nonargumentative summary. Rather, it is a campaign advertisement purporting to tout the virtues of an usury law (conveniently never using that word), and then does so in a misleading and non-forthright manner. For instance, it claims that "most consumer loans have no interest rate cap." The purported basis for this representation is never cited. The next sentence goes on to falsely claim that it applies to certain transactions "and other loan types dependent on future earnings and income." (Ex. 1 at ¶. 19.) Yet, there is no such provision that the other loan types covered by this Initiative are "dependent on future earnings and income." Again, that is simply false advertising.

But it is not just what the description of effect says that is misleading, voters are also mislead by what the description omits. It does not disclose that a whole host of exemptions that currently exist under NRS 21.105 – including for social security benefits, veterans' benefits, annuities for retired railroad employees, disability for federal employees, and the like – are deleted. (Ex. 1, § 17 deleting all existing exemptions.) Similarly, the description does not identify how the Initiative would constitute an election out of the federal "Depository Institution's Deregulation and Monetary Control Act of 1980." *Id.* at § 14. Just like it omits disclosing an exemption until January 1, 2030, for "entities licensed under the laws of this state to provide earned wage access services . . . .").

Simply put, this description of effect is a campaign advertisement that highlights a number of supposed benefits seeking to attract potential voters but omits the actual effect of provisions which will undoubtedly not be so attractive. This description of effect is anything but a fair summary of what the Initiative would do if enacted, as Nevada law requires. *Helton*, 138 Nev. Adv. Op. 45, 512 P.3d at 316.

IV. CONCLUSION

The Initiative is invalid under Nevada law and does not qualify for further consideration by Nevada's voters. It violates the single-subject rule in multiple ways, and its proposed description of effect is anything but straightforward and forthright. The description is misleading for both what it contains as well as what it omits. The Initiative should be declared invalid and enjoined.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

AFFIRMATION

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

DATED this 26th day of January, 2024.

PISANELLI ~~BICE~~ PLLC

By: _____

Todd L. Bice, Esq., #4534
Jordan T. Smith, Esq., #12097
Daniel R. Brady, Esq., #15508
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for Plaintiffs

EXHIBIT 1

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman — 1/4/2024

Signature of Petition Filer — **Date**

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in ***italics*** is new; matter between brackets **[~~omitted material~~]** is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business

under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9*

of this chapter, a person shall be subject to the requirements of this chapter notwithstanding the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees, ***provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes***. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), and is, or was at the time of the covered service

member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

Section 17. NRS 21.105 is hereby amended to read as follows:

~~[1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, $2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:~~

~~(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;~~

~~(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;~~

~~(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;~~

~~(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;~~

~~(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;~~

~~(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;~~

~~(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;~~

~~(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;~~

~~(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;~~

~~(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;~~

~~(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;~~

~~(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;~~

~~(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and~~

~~(n) Benefits provided pursuant to any other federal law.]~~

1[~~2~~]. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor [~~and the provisions of subsection 1 do not apply,~~] $*5,000* [400] or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor, unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.

2[~~3~~]. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 [~~or 2, as applicable~~].

3[4]. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1[~~ or 2~~].

4[5]. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection [1 ~~or 2~~] includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

5~~[6]~~. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination.~~[, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money.]~~ If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

6~~[7]~~. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Section 18. NRS 21.090 is hereby amended to read as follows:

1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, ***$850 of disposable earnings. If the debtor's weekly disposable earnings exceed $850, 90% of disposable earnings in excess of $850 shall be exempt from garnishment unless the weekly disposable earnings of the debtor exceed $1,200, in which case 85% of the disposable earnings in excess of $850 shall be exempt from garnishment. The amount not subject to garnishment is exempt.*** ~~[82 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued was $770 or less, 75 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued exceeded $770, or 50 times the minimum hourly wage prescribed by section 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and in effect at the time the earnings are payable, whichever is greater.]~~ Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor. ***Compensation paid or payable for personal services is earnings regardless of whether the judgment debtor is classified as an independent contractor or an employee.***

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all

furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including:

(1) Subject to the provisions of NRS 115.055, the sum of $605,000 that is paid to the defendant in execution pursuant to subsection 2 of NRS 115.050 or to a spouse pursuant to subsection 3 of NRS 115.050; and

(2) A homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $605,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $1,000,000 in present value, held in:

(1) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(2) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(3) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former

spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $10,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101 et seq., do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

4. The exemptions set forth in this section and NRS 21.105 shall be automatically adjusted to reflect changes by the percentage change, if any, from January 1st to December 31st of the preceding year in the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, beginning the April 1 following enactment and every 3 years thereafter. The Nevada Department of Business & Industry shall publish the 1-year adjustment for an effective date of April 1st for the following year. Adjustments made pursuant to this paragraph must be rounded up to the next $10.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

J. Malcolm DeVoy (NSBN 11950)
Matthew Morris (NSBN 15068)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, NV 89511
Tel: (775) 327-3000
Fax: (775) 786-6179
jmdevoy@hollandhart.com
mcmorris@hollandhart.com

Attorneys for Plaintiff DailyPay, Inc.

FIRST JUDICIAL DISTRICT COURT OF NEVADA
IN AND FOR CARSON CITY

DAILYPAY, INC., a Delaware Corporation

Plaintiff,

v.

The Honorable FRANCISCO V. AGUILAR, in his official capacity as Secretary of State for the State of Nevada;

Defendant.

Case No. 24OC

Dept. No. 1

2024 JUN 29 PM 3:

BY

DEPUTY

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

[Exemption from Arbitration Based on Equitable and Declaratory Relief Requested NAR 3(A), 5(A)]

Plaintiff DAILYPAY, INC. ("Daily Pay"), by and through its counsel, Holland & Hart LLP, hereby files this Complaint for Declaratory and Injunctive Relief against Defendant FRANCISCO V. AGUILAR, in his official capacity as Secretary of State for the State of Nevada. Plaintiff files this Complaint to challenge Initiative Petition S-01-2024 and Initiative Petition S-03-2024 (the "Petitions"). Plaintiff alleges as follows:

JURISDICTION

1. This Court has subject matter jurisdiction over this Complaint challenging the Petitions pursuant to NRS 295.061, and over Plaintiff's claims for declaratory and injunctive relief pursuant to NRS 30.030, NRS 30.040(1), and NRS 33.010.

Docket 88557 Document 2024-17423

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

INTRODUCTION

2. This Complaint challenges the Petitions, which seek to enact a new chapter to the Nevada Revised Statutes titled the "Preventing Predatory Payday and Other Loans Act" (the proposed "Act"). *See*, **Exhibits 1** and **2**, a true and correct copy of the Petitions, attached hereto.[1]

3. The Petitions' description of effect states, among other things, that the proposed Act "addresses high-interest lending practices by establishing maximum interest rates charged to consumers," and "also prohibits evading the [proposed] interest rate cap by structuring transactions to mask their nature as loans covered by this measure[.]"

4. During the 2023 Legislative Session, the Legislature approved, and the Governor signed into law, Senate Bill 290 ("SB 290"). SB 290 authorizes the licensure in Nevada of providers of earned wage access services (also referred to in this Complaint as "EWA" services). SB 290 defines "earned wage access services" as "the delivery to a user of money that represents earned but unpaid income." *See* SB 290, Sec. 7.

5. EWA services allow a worker-user to access wages the worker has already worked for and earned, for example, to pay for an unexpected emergency expense. Accordingly, SB 290 provides that EWA services are not loans or other forms of credit—the worker is accessing income that is already earned: "[E]arned wage access services…by a provider licensed pursuant to [SB 290] are **not a loan** or money transmission." SB 290, Secs. 33(1)-(2); SB 290 Legislative Digest (emphasis added).

6. More than 36,000 Nevada workers have had access to the EWA services provided by DailyPay, and more than 200 Nevada businesses have offered DailyPay's EWA services to their workers. Approximately 12,650 Nevada users are enrolled to use DailyPay's EWA services.

[1] **Initiative Petition S-01-2024 (Ex. 1)** was filed on Jan. 5, 2024, and **Initiative Petition S-03-2024 (Ex. 2)** was filed on Jan. 24, 2024. Both petitions propose identical language relating to "predatory" lending and SB 290, but the second Petition removed language relating to wage garnishment and exempting personal funds from debt collection, initially included in the first Petition. As pertinent here, the Petitions are identical and propose the same Act. Their respective descriptions of effect of the proposed Act are identical. It is not clear why the first Petition was not withdrawn after the second Petition was filed. As of the filing of this Complaint, the Petitions propose the same language verbatim and suffer from the same legal defects, so this Complaint challenges both Petitions as invalid and unconstitutional.

7. The proposed Act would revise SB 290 by defining EWA services as a "loan" and defining EWA service providers, and the employers they partner with, as lenders, subject to new and expanded restrictions, liability, and civil penalties.

8. Despite SB 290, Secs. 33(1)-(2), declaring that EWA services are not to be deemed a loan or other form of credit, the proposed Act defines a "loan" to include, among other things: "Any…agreement **for the payment of unpaid wages,**…or other income…**whether earned**, to be earned, or contingent upon future earnings…made in consideration for…the payment of money to…the person earning or receiving or potentially earning or receiving, the wages…or other income." **Ex 1.**, at 2; **Ex. 2**, at 2 (proposed Act, Sec. 5(1)(c) emphases added).

9. The proposed Act would revise SB 290's plain language declaring that EWA services are **not a loan** and are not to be "deemed a loan or other form of credit." SB 290, Sec. 33(1)-(2). While the proposed Act refers to and revises SB 290, the Petitions do not include the full text of SB 290 for a signatory to review.

10. The proposed Act would mandate a maximum Annual Percentage Rate ("APR"), that would prospectively apply to EWA service providers licensed under SB 290, effective January 1, 2030. **Ex 1**, **Ex. 2**, Secs. 9, 15. If the proposed Act is approved, its remaining sections, including its redefining EWA services as "loans," and new restrictions and penalties for so-called "predatory" lending or "masking" a transaction that the Act defines as a "loan", would apply to EWA service providers and their employer partners before January 1, 2030. The description of effect is silent on the fiscal impacts to the State in enforcing these new and expanded mandates.

11. The Petitions also are silent to the fact that they would amend SB 290 and repeal existing law which plainly directs that EWA services are not to be deemed a loan or other form of credit, and that EWA service providers are not lenders.

12. The description of effect is argumentative, deceptive, and misleading, stating the proposed Act will apply only to "predatory" and "high-interest" loans and lending practices. In reality, the proposed Act's express terms will apply to EWA services, which are not loans, and to

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

EWA service providers, which are not lenders, and which may not charge interest or any other penalty against a user under SB 290. Nothing about EWA services under SB 290 is "predatory" or "high-interest," despite the Petitions' deceptive description of effect stating otherwise.

13. The Petitions' description of effect provides no meaningful notice to thousands of potential Nevada signatories who are EWA users, or to hundreds of Nevada businesses that partner with EWA providers to offer EWA services to their workers, that the proposed Act re-defines EWA services to be a "loan" and a "predatory" loan, at that. The description of effect is silent on the proposed Act imposing new restrictions, prohibitions, and penalties on providers of EWA services, which SB 290 declares are not loans, and from which tens of thousands of Nevada workers have benefited.

14. The misleading description of effect fails to notify hundreds of Nevada employers who partner with EWA providers to offer EWA services to their workers as a benefit of employment, that they, too, would be subject to new, so-called "predatory" lending rules, liability, and penalties, as a "person that…markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of [the proposed Act]." **Ex. 1**, at 2; **Ex. 2**, at 2. (Sec. 7(1)).

15. The Petitions are invalid because they violate the single-subject rule, fail to truthfully describe the proposed Act's effects or give fair notice to potential signers, withhold the full text of the proposed measure, and fail to account for the proposed Act's fiscal impacts.

PARTIES

16. Plaintiff DailyPay, Inc. ("DailyPay"), is a Delaware-registered corporation authorized to do business in Nevada. DailyPay is an employer-integrated earned wage access service provider that currently partners with more than 200 Nevada employers to provide earned wage access services to thousands of Nevada workers. DailyPay will be directly and irreparably harmed by the challenged Petitions if their proposed Act is approved.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

17. Defendant Francisco V. Aguilar is Nevada's duly elected Secretary of State and is sued in his official capacity. Defendant is Nevada's Chief Elections Officer responsible for administering Nevada's elections and initiative petition process under NRS Chapters 293 and 295.

JURISDICTION AND VENUE

18. NRS 295.061 confers jurisdiction on this Court to hear Plaintiff's claims challenging the Petitions' compliance with single-subject and description-of-effect requirements.

19. NRS 30.030, NRS 30.040 and NRS 33.010 confer jurisdiction on this Court to grant Plaintiff's requests for declaratory and injunctive relief.

20. The Court has personal jurisdiction over the Defendant, who resides in and carries out official duties in the State of Nevada, pursuant to NRS 14.065.

21. Venue is proper under NRS 295.061(1) and NRS 13.010, 13.020(3), and 13.040. Plaintiff challenges the Petitions' compliance with NRS Chapter 295, and the Defendant carries out official duties in Carson City, Nevada.

FACTUAL ALLEGATIONS

22. On or about January 5, 2024,[2] and January 24, 2024, Kate Feldman filed the challenged Petitions with the Nevada Secretary of State's Office. *See* **Exs. 1** and **2**, at 1.

23. The Petitions propose to enact the "Preventing Predatory Payday and Other Loans Act." Sections 1 to 16 of the proposed Act in both Petitions are identical, as are their descriptions of effect for the proposed Act. Despite their identical language pertaining to "predatory" lending, the Petition filed on January 5th has not been withdrawn as of the date of this filing.

The Proposed "Preventing Predatory Payday and Other Loans Act."

24. The proposed "Preventing Predatory Payday and Other Loans Act" seeks to add a new chapter (proposed NRS Chapter 604D) to the Nevada Revised Statutes." **Exs. 1 and 2**, Sec.1.

25. The proposed Act, Sec. 2, describes the Act's purpose as "combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada

[2] The first Petition, **Ex. 1**, at 1, is dated Jan. 4, 2024, but the Secretary of State's online Petitions page states it was received Jan. 5, 2024. *See* https://www.nvsos.gov/sos/elections/2024-petitions(accessed Jan. 24, 2024).

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities." **Exs. 1** and **2** (Sec. 2).

26. The proposed Act does not define the term "predatory" loan and refers to other statutory definitions without providing their full text for a signer's review. **Exs. 1 and 2**, (Sec. 8(1)-(10)).

27. The proposed Act, Section 4, defines "Annual percentage rate" or APR as "an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transactions subject to this chapter[.]" **Exs. 1 and 2** (Sec. 4).

28. Section 5 defines the term "loan" to mean, among other things, "Any…agreement for the **payment of unpaid wages, salary, commissions, compensation, or other income**… **whether earned, to be earned, or contingent upon future earnings**, that is made in consideration for…the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income." **Exs. 1 and 2** (Sec. 5(1)(a)(c) (emphases added).

29. Section 5 further provides that "any transaction that satisfies any definition in this section is a 'loan' for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment and without regard to whether the transaction carries required charges or payments." **Exs. 1 and 2** (Sec. 5(2)).

30. Section 7 states the Act shall apply "to any payday lender or other person that: 1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter, or other transaction as defined in Section 8 of this Chapter, including a credit service organization that obtains an extension of credit for a borrower." **Exs. 1 and 2** (Sec. 7(1)). Sec. 7 also states the Act shall apply to "any payday lender or other person" that "is deemed to be subject to this chapter under Section 11…or is engaged in a transaction that is in substance a

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

disguised loan or…is a device, subterfuge or pretense to evade this chapter." **Exs. 1 and 2** (Sec. 7(5)).

31. Section 9 proposes a "maximum interest rate" for "any loan or other transaction subject to this chapter" and provides "no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed." **Exs. 1 and 2** (Sec. 9). Sec. 9 "shall apply notwithstanding any other provision of the laws of this state." *Id.*

32. Section 10 enumerates "prohibited acts to evade application" of the proposed Act. **Exs. 1 and 2** (Sec. 10(1)-(6)). Such "prohibited acts" include "disguising a loan or other transaction as the sale of goods, services, or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action." **Exs. 1 and 2** (Sec. 10(3)). Section 10 includes as a "prohibited act" "structuring the transaction in a manner to obscure the fact that it is a loan," or "charging, contracting for, or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary." **Exs. 1 and 2** (Secs. 10(5)-(6)).

33. Sections 12-13 prohibit "facilitation of payday loans or other transactions in violation" and establish "remedies for payday loans or other transactions made in violation of" the proposed Act. Section 13 provides that "a loan or other transaction made in violation of this chapter shall be void and uncollectable as to any principal, fee, interest, charge, or payment." **Exs. 1 and 2** (Sec. 13(1)). Section 13 allows "an action for violation of this chapter [to] be brought in any court of competition jurisdiction." **Exs. 1 and 2** (Sec. 13(2)).

34. Section 13 makes "any person who violates" the proposed Act liable for:

> (a) Actual and consequential damages;
> (b) Restitution of any amounts paid;
> (c) Treble the amount of any excess fee, interest, charge or payment;
> (d) Statutory damages ranging from $250 to $1,000 per violation;
> (e) Injunctive or declaratory relief;
> (f) Reasonable attorney's fees and costs; and
> (g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

(**Exs. 1 and 2**) (Secs. 13(3)(a)-(g)). The proposed Act does not define the term "person."

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

35. The proposed Act refers to SB 290 but does not include any of SB 290's text, much less its "full text" as the Nevada Constitution and NRS 295.0575 require. The proposed Act, Sec. 15, relates to the "application of [the proposed] chapter to earned wage access services" under SB 290. **Exs. 1 and 2** (Sec. 15). Section 15 provides that:

> Prior to January 1, 2030, **section 9 of this chapter shall not apply** to entities licensed under the laws of this State to provide earned wage access services, **as defined in Senate Bill No. 290** of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. **Beginning on January 1, 2030, section 9 shall apply** to any **provider of earned wage access services**, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that **satisfy the definition of earned wage access services** currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.

Exs. 1 and 2 (Sec. 15) (emphases added). The proposed Act's prospective application refers only to Section 9's interest rate cap. If approved, the proposed Act's remaining sections would apply to EWA service providers and their employer partners before January 1, 2030, including: Section 5's definition of access to earned but unpaid income as a "loan,"; Section 10's prohibition on "disguising" a transaction defined as a "loan," or "structuring" a transaction to "obscure" that it is a loan, and prohibiting charging fees "in excess of those permitted"; and Section 13, subjecting violations to treble damages, restitution, attorney fees, and injunctive and declaratory relief.

36. If approved, the proposed Act's Secs. 5, 8, 10, and 13, in particular, will apply to DailyPay, which currently provides employer-integrated earned wage access services in Nevada as authorized under SB 290, and to DailyPay's employer partners in Nevada, who offer employer-integrated earned wage access services as a benefit to thousands of Nevada workers.

SB 290

37. SB 290 authorizes the licensure of earned wage access service providers in Nevada, declares that EWA services are not loans, and declares that EWA service provides are not lenders.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

38. SB 290 passed nearly unanimously in the State Senate by a vote of 19 to 1, with one excused. SB 290 passed the State Assembly by more than a two-thirds supermajority margin of 35 to 7. Governor Joe Lombardo signed the bill into law on June 13, 2023.

39. SB 290 authorizes an EWA service provider to deliver access to a worker's income, **which the worker has already earned**, before an employer has paid the income **the worker has already earned**. SB 290 declares that such a service is **not a loan** or other form of credit, because the EWA user is accessing income the EWA user has worked for, income which the worker has already earned. SB 290, Sec. 33(1)-(2).

40. SB 290 defines "earned but unpaid income" as "salary, wages, compensation or other income that: (a) A user or employer has represented, **and a provider has reasonably determined to have been**, **earned or accrued** to the benefit of the user in exchange for the **user's provision of services to the employer** or on behalf of an employer; and (b) Has not been paid to the user by the employer at the time a provider delivers the payment of the proceeds to a user." SB 290, Sec. 4(1)-(2) (emphases added).

41. SB 290 defines "earned wage access services" in general to be "the delivery to a user of money that represents **earned but unpaid** income. The term includes both employer-integrated earned wage access services and direct-to-consumer earned wage access services." SB 290, Sec. 7(1)-(2).

42. SB 290 authorizes two types of earned wage access services: Employer-Integrated, and Direct-to-Consumer. SB 290, Secs. 3.1-3.2; Secs. 9-9.1 DailyPay is an employer-integrated earned wage access service provider.

43. SB 290 requires an "employer-integrated earned wage access provider" to verify with an employer that a worker has **already earned** the income that the worker accesses through the EWA provider's service. Because the worker has already earned the income accessed through

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

the provider's service, the accessed funds are not a "loan" to the worker, who is merely accessing income that has already been worked for and earned. The EWA provider must verify with the employer that the income has been earned before the EWA user accesses it. SB 290, Sec. 9.1.

44. Thus, SB 290, Sec. 9.1, defines "employer-integrated earned wage access services" not as the delivery of money to a user, but more particularly, the delivery of **access to money** that the user has **already earned**. SB 290, Sec. 9.1, defines "employer-integrated earned wage access services" as "the delivery to a user of **access to earned but unpaid income** determined based on employment, income or attendance data **obtained directly or indirectly from an employer**, including…an employer's payroll service provider." (Emphases added).

45. SB 290, Sec. 12, requires an EWA service provider to obtain a license from the Financial Institutions Division ("FID"). SB 290 imposes a variety of regulatory requirements a provider must satisfy to apply for and obtain a license to engage in business in Nevada.

46. As pertinent here, SB 290 requires any applicant for licensure to offer at least one **no-cost option** to users, *i.e.*, an option allowing the user to access their earnings at **no cost** to them. An applicant must include "a schedule of fees proposed to be charged to a user or employer for the provision of earned wage access services, which must include, without limitation, a statement identifying **at least one option for a user to obtain earned wage access services** from the applicant at **no cost to the user**." SB 290, Sec. 12(2)(d) (emphases added).

47. SB 290 subjects EWA service provider applicants to a variety of background check and reporting requirements, including fingerprinting, providing audited financial statements to FID, annual reporting to FID, and other regulatory measures. SB 290, Secs. 12-13.

48. In addition to requiring at least one no-cost option for EWA users, SB 290, Sec. 31, includes several specific measures to protect EWA users. SB 290 prohibits an EWA service provider from sharing fees or any other proceeds from a user with the user's employer.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

49. SB 290, Sec. 31(1)(b) prohibits an EWA service provider from using a worker's credit report or credit score to determine the worker-user's eligibility for EWA services.

50. SB 290, Sec. 31(1)(c) forbids an EWA service provider from "charg[ing] a late fee, deferral fee, interest or any other penalty or charge for a failure to pay outstanding proceeds, fees, voluntary tips, gratuities, or other donations."

51. SB 290, Sec. 31(1)(d) prohibits an EWA service provider from reporting to a debt collection agency information about the user regarding the inability of the provider to be repaid.

52. SB 290 requires EWA services to be non-recourse against the worker-user, *i.e.*, SB 290 Sec. 31(e)(1)-(3) prohibits a service provider from compelling or attempting to compel payment by a user, either by filing a civil action, using a third-party debt collection agency, or selling or assigning any outstanding amounts to a third-party debt collector or debt buyer. In this regard, the proposed Act's provision declaring non-recourse transactions to nonetheless be defined as "loans," is in direct response to, and constitutes a referendum on, SB 290, Sec. 31.

53. SB 290, Sec. 29(3), requires EWA service providers to allow a user to cancel, at any time and without incurring any fee, a user's participation in an EWA services agreement.

54. SB 290 explicitly and plainly declares that EWA services are not a loan or other form of credit, and that EWA service providers are not lenders subject to Nevada's lending laws. SB 290, Sec. 33(1)(a)(1)-(3) declares that:

> Nothing in this chapter [SB 290] shall be construed to cause: (a) Any earned wage access services provided by a licensee in compliance with this chapter to be deemed: (1) A loan or other form of credit; (2) As violating or noncompliant with the laws of this State governing the sale or assignment of, or an order of, earned but unpaid income; or (3) Money transmission, or to be subject to any of the provisions of law governing loans or money transmitters.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

55. SB 290, Sec. 33(1)(b) further declares that "Nothing in this chapter [SB 290] shall be construed to cause…any licensee in compliance with this chapter to be deemed a creditor, lender, or money transmitter."

56. SB 290, Sec. 33(2) further declares that "If there is a conflict between the provisions of this chapter [SB 290] and any other statute, the provisions of this chapter control."

57. SB 290, Sec. 33.5 provides "the proceeds provided to a consumer by a provider in accordance with [SB 290] shall not be subject to the provisions of [NRS] chapters 604A or 675. A provider of the proceeds shall not be required to be licensed pursuant to [NRS] chapters 604A and 675 unless the provider is conducting business pursuant to [NRS] chapter[s] 604A or 675."

58. NRS Chapter 604A governs deferred deposit loans, high-interest loans, title loans, and check-cashing services. SB 290 expressly provides that NRS Chapter 604A does not apply to EWA services and that EWA services are not any of the types of loans governed under NRS 604A.

59. NRS Chapter 675 governs installment loans. SB 290 expressly provides that NRS Chapter 675 does not apply to EWA services and that EWA services are not installment loans under NRS Chapter 675. SB 290 expressly provides that other loan and lending-related statutes, *i.e.*, NRS Chapters 604A, 671, and 675, do not apply to EWA service providers, which SB 290 declares are not lenders. SB 290, Secs. 34.5, 35, 35.5.

60. SB 290 contains a sunset provision. The bill's licensure-related provisions expire by limitation on January 1, 2030. However, SB 290 authorizes EWA service providers currently providing EWA services in Nevada to continue to do so, as of January 1, 2024. SB 290, Sec. 36.2.

The Petitions Violate the Single-Subject Rule.

61. NRS 295.009(1) requires that an initiative petition must embrace only "one subject and matters necessarily connected therewith and pertaining thereto." NRS 295.009(2) provides

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

that an initiative petition embraces one subject "if the parts of the proposed initiative or referendum are functionally related and germane to each other **in a way that provides sufficient notice** of the general subject of, and of the **interests likely to be affected** by, the proposed initiative or referendum." (Emphases added).

62. "By limiting petitions to a single subject, NRS 295.009 facilitates the initiative process by preventing petition drafters from circulating confusing petitions that address multiple subjects...single subject requirements serve to prevent voter confusion and promote informed decisions by narrowing the initiative to a single matter and providing information on that single matter to the voter." *Nevadans for the Protection of Property Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006) (citing *Campbell v. Buckley* 203 F.3d 738 (10th Cir. 2000)).

63. The Petitions violate the single subject rule by telling voters that the proposed Act addresses "predatory" and "high-interest" loans and lending practices, when the proposed Act also applies, without explanation or fair notice, to EWA services, which existing law plainly declares are not loans, are not lending, are not credit, are non-recourse, and must not charge interest.

64. The Petitions violate the single subject rule because the description of effect makes no attempt to fairly inform voters that the proposed Act would apply to financial services that are, by law, not "predatory," that by law, must not charge interest, that by law, must not refer users to debt collection agencies, or otherwise take recourse against users.

65. Although SB 290's plain language is clear enough, Legislative testimony confirms the Legislature's policy decision to designate EWA services as categorically distinct from loans and credit products. One of SB 290's primary sponsors, Senate Majority Leader Nicole Cannizzaro, testified SB 290 "defines 'earned but unpaid income' to mean salary, wages or other compensation that an employee has already earned, but that has not been paid to the employee...**this definition is key to distinguishing EWA products from loans and other**

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

lending-related financial products and services." *Hearing on SB 290*, Nev. Sen. Commerce & Labor Cmte. Mins. (April 5, 2023) at 42.

66. The Senate Majority Leader further testified that SB 290's "non-recourse aspects of EWA regulations are an important consumer protection feature that distinguishes EWA products from other predatory and high-interest financial products and loans." *Id.*, at 43. The Senate Majority Leader made clear that SB 290 "distinguishes EWA services and products from loans and other financial products." *Id.*, at 44.

The Petitions' Description of Effect is Misleading, Deceptive, and Argumentative.

67. NRS 295.009(1)(b) requires an initiative petition to include a "description of effect" that "[s]et[s] forth, in not more than 200 words, a description of the effect of the initiative…if the initiative…is approved by the voters." The description of effect "is significant as a tool to help 'prevent voter confusion and promote informed decisions.'" *Las Vegas Taxpayer Accountability Cmte. v. City Council of City of Las Vegas*, 125 Nev. 165, 183, 208 P.3d 429, 441 (2009) (quoting *Nevadans for Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006)).

68. The description of effect must be "straightforward, succinct, and nonargumentative." *Id.* (citing *Herbst Gaming*, 122 Nev. 877, 889, 141 P.3d 1224, 1232). The description of effect must not be deceptive or misleading. *Educ. Freedom PAC v. Reid*, 138 Nev. Adv. Op. 47, 512 P.3d 296, 304 (2022) (citing *Educ. Initiative PAC v. Cmte. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013)). The description of effect "is what the voters see when deciding whether to sign a petition, and…must accurately inform petition signers of the nature and effect of that which is proposed." *No Solar Tax PAC v. Citizens for Solar and Energy Fairness*, 132 Nev. 1012, 2016 WL 4182739, at *1 (2016) (unpublished disposition) (citations omitted).

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

69. The Petitions' description of effect is argumentative, deceptive and misleading to potential signatories. It states the proposed Act "addresses high-interest lending practices by establishing maximum interest rates charged to consumers[.]" **Ex. 1**, at 19; **Ex. 2**, at 11. But the proposed Act also applies to EWA service providers, which by law, "shall not…[c]harge a late fee, deferral fee, interest or any other penalty or charge for failure to pay outstanding proceeds[.]" SB 290, Sec. 31(1)(c). The description of effect misleadingly equates EWA services, which may not charge interest and are not "loans," with "high-interest lending practices."

70. The Petitions' description of effect is deceptive and misleading in that it conspicuously omits any reference to SB 290 or EWA services, which are not "loans" under existing law, even though the proposed Act's definition of "loan" applies to EWA services.

71. Further, the description of effect contradicts the proposed Act's own language. The description states the proposed Act's interest rate cap will apply only to "loan" products, *i.e.*, to "consumer loans…deferred-deposit transactions ('payday loans'); title loans, and **other loan types dependent on *future* earnings and income**." **Ex. 1**, at 19; **Ex. 2**, at 11 (emphases added). This description contradicts Section 5's definition of "loan," which includes not only "future earnings and income," but also transactions involving **past** earnings, *i.e.*, "the payment of unpaid wages, salary…or other income…**whether *earned*, to be earned, or contingent on upon future earnings**." **Exs. 1 and 2** (Sec. 5(1)(c) (emphases added). The description of effect not only fails to inform signers of the Act's applicability to non-loan products, it fails even to accurately describe the loans to which the Act states it will apply.

72. The Petitions' description of effect does not inform signers that the proposed Act applies to loan and non-loan products alike. *Las Vegas Taxpayer Accountability Cmte. v. City Council of City of Las Vegas*, 125 Nev. 165, 184, 208 P.3d 429, 441 (2009) (invalidating a

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

description of effect stating a "referendum's passage would halt only new development projects," when the petition would "also affect existing redevelopment projects").

73. The description of effect fails to inform potential signers regarding the scope of the proposed Act, which uses key terms without defining them, further exacerbating the Petition's confusing content and argumentative tone. For example, nowhere in the proposed Act or description of effect are the terms "person," "consumer," or "payday lender" defined, but the proposed Act imposes restrictions, liability, and penalties on "any payday lender or other person[.]" **Exs. 1 and 2**, (Sec. 7).

74. The proposed Act, Sec. 2, states it is meant to "combat[ ] predatory payday lending" but nowhere does the Act define its pugilistic term "predatory payday lending." *No Solar Tax PAC v. Citizens for Solar and Energy Fairness*, 132 Nev. 1012, 2016 WL 4182739, at *2 (2016) (unpublished) (description of effect was misleading and argumentative in using undefined terms such as "unaffordable" and "cost-prohibitive" that were not used in statutory language).

75. SB 290's plain language is clear enough, but Legislative testimony confirms the Legislature's policy determination that EWA products are not predatory or high-interest products, and in fact, are an **alternative** to such products. SB 290's bill sponsor testified it is intended to authorize EWA services because they provide an alternative to predatory options: "As families are struggling and banks are closing, we need to find a safe and secure means for Nevada families to **avoid predatory credit finance**. Earned wage access allows a worker who needs a bit of money to cover an unexpected expense to access money they have already earned." *Hearing on SB 290*, Nev. Sen. Commerce & Labor Cmte. Mins. (April 5, 2023) at 42 (emphases added).

76. On the Senate Floor, Sen. Jeff Stone (R) stated his "enthusiastic support" for SB 290, which he stated would help "many blue-collar workers in Nevada." *Nev. Sen. Daily Journal* (82nd Leg. Nev., May 25, 2023), at 314. Sen. Stone stated SB 290 "gives people an opportunity to tap their own wages without paying significant fees or significant interest rates. They are getting

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

their own money. It is a wonderful device that will help many people. [SB 290] will probably have the biggest impact on many of our citizens who need emergency help. This is their money." *Id.*

77. The Petitions' description of effect is misleading and argumentative in stating to voters that EWA services are "predatory." SB 290 authorizes EWA services as an alternative to "predatory" products.

The Petitions Fail to Include the "Full Text of the Measure Proposed."

78. The Nevada Constitution requires that "[e]ach referendum petition and initiative petition shall include the full text of the measure proposed." NEV. CONST., Art. XIX, § 3, cl. 1. The Nevada Constitution also directs that "no law shall be revised or amended by reference to its title only; but, in such case, the act as revised or section as amended, shall be re-enacted and published at length." NEV. CONST., Art. IV, § 17.

79. NRS 295.0575(6) also requires initiative petition circulators to include an affidavit stating that "each [petition] signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded."

80. The proposed Act would revise SB 290 by reclassifying EWA services as "loans", whereas SB 290 expressly and categorically declares that EWA services are not to be considered "a loan or other form of credit," and that an EWA service provider is not to be deemed "a creditor, lender or money transmitter." SB 290, Sec. 33(1)(a)(1)-(3).

81. The proposed Act, Sec. 15, refers to, but does not include SB 290's definition of "earned wage access services," and purports to apply prospectively to "any provider of earned wage access services…including any provider of transactions that satisfy the definition of earned wage access services currently set forth in [SB] 290 of the 82nd Regular Session of the Nevada Legislature (2023)." **Exs. 1 and 2** (Sec. 15).

82. The proposed Act withholds SB 290's definition of "earned wage access services" to which the proposed Act refers but purports to apply. It does not so much as provide the section of the bill to which the proposed Act refers. SB 290 includes no less than 16 distinct defined terms in authorizing EWA services and licensure. SB 290, Secs. 2-11.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

83. A potential signer has no meaningful way of knowing the context of the proposed Act's reference to SB 290, and no way of knowing that SB 290 actually declares EWA services are not loans, are not credit, that EWA service providers are not lenders, may not charge interest, and may not take recourse against users. The description of effect deceptively brands EWA services as "predatory" when SB 290 requires an EWA provider to offer at least one option that is no-cost to an EWA user.

84. The proposed Act directly revises SB 290's provisions but includes no description of SB 290's rules governing EWA services, nor does the description of effect provide a signer "the opportunity before signing to read the full text of the act [SB 290] on which the initiative…is demanded." NRS 295.0575(6).

The "Initiative" is Substantively a Referendum on SB 290

85. Further exacerbating the confusion, to the extent the Petitions seek to overturn SB 290, or portions thereof, (particularly SB 290's declarations that EWA services are not loans), the Petitions are incorrectly classified as "Initiative Petitions," because they ask voters to effectively repeal a law that the Legislature has already approved, without telling voters at all about that effect. This is a deceptive end run around the legislative process and abuses the initiative petition process.

86. The Petitions' effective repeal of SB 290's framework for EWA services in Nevada amounts to a "referendum" on SB 290, subject to distinct rules and procedures that control petitions to approve or disapprove statutes the Legislature has adopted. NEV. CONST., Art. XIX, § 1.

87. The proposed Act's applicability, at Sec. 5(2), to "any transaction…without regard to whether the payday lender or other lender has legal recourse against the borrower" is in direct response to SB 290, Sec. 31, which requires EWA services to be "non-recourse" and prohibits EWA service providers from "compelling or attempting to compel payment by a user through certain actions." SB 290, Leg. Digest, at 2.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

88. If circulators wish to submit a referendum on SB 290, the circulators must inform Nevada voters of their intent do so, rather than disguise the referendum as an initiative petition.

89. In any event, the Nevada Constitution requires the Petitions (whether a referendum or initiative) to include the "full text" of SB 290 and forbids a piecemeal revision to a bill without a full re-print of the measure, to ensure that signatories can review the entire proposal in context.

90. The Petitions must include SB 290 in its entirety, so that potential signers are fully and fairly informed as to SB 290's EWA definitions, the bill's protections for EWA users, and the proposed Act's revisions that seek to overturn and revise SB 290.

The Petitions Violate the Prohibition Against Unfunded Mandates.

91. The initiative process "does not permit the proposal of any statute or statutory amendment which makes an appropriation or otherwise requires the expenditure of money, unless such…amendment also imposes a sufficient tax, not prohibited by the Constitution, or otherwise constitutionally provides for raising the necessary revenue." NEV. CONST., Art. XIX, § 6. "All initiative petitions must comply with Article 19, Section 6's requirement that initiatives requiring expenditures or appropriations contain a funding provision." *Educ. Freedom PAC v. Reid*, 138 Nev. Adv. Op. 47, 512 P.3d 296, 303 (2022).

92. SB 290 was subject to a two-thirds supermajority threshold because it directs EWA service provider license applicants to pay new fees and other costs associated with the application process, and to pay for costs the State (FID) must incur in carrying out its enforcement role. SB 290, Secs. 12, 21. SB 290 was referred to and approved by the Senate Finance committee because of FID's fiscal notes, and the bill's fiscal impacts and revenue requirements.

93. FID's fiscal note to SB 290 estimated that "25 new licensees" in Nevada would require FID licensure and supervision, and that "FID will be responsible for regulatory development, implementation, examinations, complaint investigations, and all other regulatory matters pertaining thereto." FID Fiscal Note No. 8397 (March 22, 2023) (attached as **Exhibit 3**).

94. The proposed Act would nullify SB 290's declaration that EWA services are not loans, that EWA service providers are not lenders, and would subject EWA services to expanded regulation and enforcement as lending practices subject to the proposed Act. Yet the Petition

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

includes no explanation or reference to the clear fiscal impacts of its proposed expansion of regulatory oversight and potential disciplinary actions over EWA service products and providers.

95. SB 290 exempted EWA services from Nevada's lending statutes and categorized EWA services as non-loan, non-credit, non-money transmission products, and yet the bill had a more-than $162,000 fiscal impact to the State (according to FID's fiscal note, **Ex. 3**) that required new revenue in the form of application and licensure fees.

96. The proposed Act would significantly expand regulatory oversight and enforcement applicable to EWA services and apparently other financial products, but includes no explanation as to how this oversight and enforcement will be administered or paid for.

97. Like SB 290, the proposed Act will necessarily require a funding source to pay for its new and expanded enforcement mandates the proposed Act seeks to impose on EWA services and service providers, as well as other unspecified categories of "persons" to which the proposed Act seeks to apply. The Petitions' failure to include any funding provision constitutes an impermissible unfunded mandate that renders the Petitions unconstitutional.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

FIRST CAUSE OF ACTION
(Declaratory Relief - Violation of NRS Chapter 295.009's Single-Subject Rule)

98. Plaintiff re-alleges and incorporates all of the foregoing paragraphs as if fully set forth herein.

99. The Petitions violate NRS 295.009(1)(a) because the proposed Act is not limited to one subject and matters necessarily connected therewith and pertaining thereto.

100. The Petitions purport to address "high-interest" and "predatory" lending, but also apply to earned wage access services, which existing law declares are not loans, are not credit, may not charge interest, and are non-recourse against users.

101. The Petitions' scope exceeds the single-subject rule and the Petitions are therefore invalid.

102. Plaintiff requests this Court declare that the Petitions violate NRS 295.009 and are invalid.

103. This Court has the power to grant such relief.

SECOND CAUSE OF ACTION
(Declaratory Relief - Violation of NRS 295.009's Description-of-Effect Rule)

104. Plaintiff re-alleges and incorporates all of the foregoing paragraphs as if fully set forth herein.

105. The Petitions' description of effect is argumentative, deceptive, and misleading in violation of NRS 295.009(1)(b).

106. The Petitions' description of effect misleads potential signatories in claiming that the proposed Act applies only to "loan" products, and to loan products "dependent on future earnings," when the proposed Act's text, on its face, also applies to EWA transactions, which are not loans, and which by definition deliver access to income that has already been earned.

107. The Petitions' description of effect does not inform voters or potential signatories that the proposed Act would re-define earned wage access services, which existing law declares are not a "loan or other form of credit" or to be considered "loans."

108. The Petitions purport to subject earned wage access service providers, and others who "facilitate" earned wage access services, to new, burdensome restrictions, legal liability, and civil penalties, but do not explain these material effects of the proposed Act.

109. The description of effect does not provide fair notice to a potential signer or voter who is also an EWA user, or to an employer who partners with an EWA provider to offer EWA services to workers, that signing the Petition and supporting the proposed Act will adversely affect their interests in continuing to use or provide EWA services.

110. Plaintiff requests that this Court declare the Petitions are invalid and violate NRS 295.009(1)(b).

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

111. This Court has the power to grant such relief.

THIRD CAUSE OF ACTION
(Declaratory Relief - Violation of the Constitution's and NRS 295.0575(6)'s "Full Text" Rule (NEV. CONST., Art. XIX, § 3 Cl. 1))

112. Plaintiff re-alleges and incorporates all of the foregoing paragraphs as if fully set forth herein.

113. The Petitions purport to directly revise and repeal SB 290, and incorporate definitions within SB 290 without providing SB 290's full text for signers to review and consider.

114. The Nevada Constitution forbids revisions to a bill without providing the full text of the measure that is being revised.

115. NRS 295.0575(6) requires the Petition circulators to affirm that signers had an opportunity to review the "full text" of the proposed act, but the Petitions do not include the full text of SB 290, which the Petitions refer to and seek to amend and repeal.

116. Plaintiff requests this Court declare the Petitions are invalid and violate the Nevada Constitution's and NRS 295.0575's requirements that an initiative petition or referendum "shall include the full text of the measure proposed." *See* NEV. CONST., Art. XIX, § 3, cl. 1.

117. This Court has the power to grant such relief.

FOURTH CAUSE OF ACTION
(Declaratory Relief - Violation of the Constitution's Unfunded Mandate Rule (NEV. CONST., Art. XIX, § 6)

118. Plaintiff re-alleges and incorporates all of the foregoing paragraphs as if fully set forth herein.

119. The Nevada Constitution forbids proposing a statute or statutory amendment which requires the expenditure of money without sufficient revenue to pay for the expenditure.

120. The proposed Act would dramatically expand the State's regulatory responsibilities over EWA services and other "persons" who facilitate EWA services, such as employers.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

121. The proposed Act includes no funding mechanism to account for the expansive regulatory oversight and enforcement duties the proposed Act requires the State to undertake.

122. Plaintiff requests this Court declare the Petitions are invalid and violate the Nevada Constitution's prohibition against initiative petitions proposing unfunded mandates.

123. This Court has the power to grant such relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

A. A judgment in the Plaintiff's favor and against the Defendant;

B. A declaration that the Petitions violate NRS 295.009(1)(a);

C. A declaration that the Petitions violate NRS 295.009(1)(b);

D. A declaration that the Petitions violate the Nevada Constitution, Art. XIX, Sec. 3 and NRS 295.0575(6);

E. A declaration that the Petitions violate the Nevada Constitution, Art. XIX, Sec. 6;

F. An Order enjoining and prohibiting the Nevada Secretary of State from allowing the circulation of the Petitions for signatures, or otherwise advancing the Petitions as filed on January 5, 2024 and January 24, 2024;

G. For reasonable attorneys' fees and costs; and

H. For such other and further relief as the Court may deem just and proper.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

AFFIRMATION

The undersigned affirms that this document does not contain the social security number of any person and acknowledge that when any additional documents are filed, an affirmation will be provided only if the document does contain personal information.

DATE: January 29, 2024

HOLLAND & HART LLP

J. Malcom DeVoy (NSBN 11950)
Matthew Morris (NSBN 15068)
5441 Kietzke Lane, 2nd Floor
Reno, NV 89511
Tel: (775) 327-3000
Fax: (775) 786-6179
jmdevoy@hollandhart.com
mcmorris@hollandhart.com

Attorneys for Plaintiff DailyPay, Inc.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

PLAINTIFF'S EXHIBITS
Complaint for Declaratory and Injunctive Relief

Exhibit No.	Document Title	# of Pages
1	Petition S-01-2024	25
2	Petition S-03-2024	17
3	Fiscal Note to Senate Bill 290 (2023)	4
4	Declaration of Matthew Morris, Esq.	2

EXHIBIT 1

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman

Signature of Petition Filer

1/4/2024

Date

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in ***italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. ***Liberal construction.*** ***The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.***

Section 3. ***Definitions.*** ***As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.***

Section 4. ***Annual percentage rate defined.*** ***The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.***

Section 5. ***Loan defined.***

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business

under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9*

of this chapter, a person shall be subject to the requirements of this chapter notwithstanding the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees, ***provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes***. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), and is, or was at the time of the covered service

member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

Section 17. NRS 21.105 is hereby amended to read as follows:

~~[1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, $2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:~~

~~(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;~~

~~(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;~~

~~(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;~~

~~(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;~~

~~(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;~~

~~(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;~~

~~(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;~~

~~(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;~~

~~(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;~~

~~(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;~~

~~(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;~~

~~(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;~~

~~(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and~~

~~(n) Benefits provided pursuant to any other federal law.]~~

1[~~2~~]. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor [~~and the provisions of subsection 1 do not apply.~~] *$5,000* [~~400~~] or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor, unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.

2[~~3~~]. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 [~~or 2, as applicable~~].

3[4]. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1[~~ or 2~~].

4[~~5~~]. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection [1 ~~or 2~~] includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

5[~~6~~]. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination.[~~, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money.~~] If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

6[~~7~~]. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Section 18. NRS 21.090 is hereby amended to read as follows:

1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, ***$850 of disposable earnings. If the debtor's weekly disposable earnings exceed $850, 90% of disposable earnings in excess of $850 shall be exempt from garnishment unless the weekly disposable earnings of the debtor exceed $1,200, in which case 85% of the disposable earnings in excess of $850 shall be exempt from garnishment. The amount not subject to garnishment is exempt.*** ~~[82 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued was $770 or less, 75 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued exceeded $770, or 50 times the minimum hourly wage prescribed by section 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and in effect at the time the earnings are payable, whichever is greater.]~~ Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor. ***Compensation paid or payable for personal services is earnings regardless of whether the judgment debtor is classified as an independent contractor or an employee.***

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all

furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including:

(1) Subject to the provisions of NRS 115.055, the sum of $605,000 that is paid to the defendant in execution pursuant to subsection 2 of NRS 115.050 or to a spouse pursuant to subsection 3 of NRS 115.050; and

(2) A homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $605,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $1,000,000 in present value, held in:

(1) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(2) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(3) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former

spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $10,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101 et seq., do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

4. The exemptions set forth in this section and NRS 21.105 shall be automatically adjusted to reflect changes by the percentage change, if any, from January 1st to December 31st of the preceding year in the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, beginning the April 1 following enactment and every 3 years thereafter. The Nevada Department of Business & Industry shall publish the 1-year adjustment for an effective date of April 1st for the following year. Adjustments made pursuant to this paragraph must be rounded up to the next $10.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

				Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE - DATE / /	CITY	COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE - DATE / /	CITY	COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE - DATE / /	CITY	COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE - DATE / /	CITY	COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

EXHIBIT 2

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman — 1-24-2024

Signature of Petition Filer — **Date**

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in ***italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. ***Liberal construction.*** ***The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.***

Section 3. ***Definitions.*** ***As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.***

Section 4. ***Annual percentage rate defined.*** ***The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.***

Section 5. ***Loan defined.***

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS

672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9 of this chapter, a person shall be subject to the requirements of this chapter notwithstanding*

the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding

of interest if they choose, and for any other charges or fees, ***provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes***. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. §

1072(3), and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other

circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

EXHIBIT 3

BDR 52-9
SB 290

EXECUTIVE AGENCY
FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: March 23, 2023

Agency Submitting: Department of Business and Industry, Division of Financial Institutions

Items of Revenue or Expense, or Both	Fiscal Year 2022-23	Fiscal Year 2023-24	Fiscal Year 2024-25	Effect on Future Biennia
3718 - Earned Wage Access Providers (Revenue)			$50,000	$50,000
3730 - Examination Fees (Revenue)			$56,250	$112,500
Total	0	0	$106,250	$162,500

Explanation (Use Additional Sheets of Attachments, if required)

As currently drafted, BDR 52-9 (SB290) creates a new licensing and regulatory program for on-demand pay providers. BDR 52-9 (SB290), if passed, would add approximately 25 new licensees under the Financial Institutions Division's (FID) supervision. FID will be responsible for regulatory development, implementation, examinations, complaint investigations, and all other regulatory matters pertaining thereto.

Name Dale Hansen

Title ASO IV

GOVERNOR'S OFFICE OF FINANCE COMMENTS

Date Wednesday, March 22, 2023

The agency's response appears reasonable.

Name Amy Stephenson

Title Director

FN 8397

Section B1: Summary by GL
Budget Account: 3805 B&I - FINANCIAL INSTITUTIONS INVESTIGATIONS

Item No	Description	Actual 2021-2022	Work Program 2022-2023	W01 Year 1 2023-2024	W01 Year 2 2024-2025
REVENUE					
3717	APPLICATION FEES	0	0	0	25,000
	TOTAL REVENUES FOR BUDGET ACCOUNT 3805	0	0	0	25,000

Section B1: Summary by GL
Budget Account: 3835 B&I - DIVISION OF FINANCIAL INSTITUTIONS

Item No	Description	Actual 2021-2022	Work Program 2022-2023	W04 Year 1 2023-2024	W04 Year 2 2024-2025
REVENUE					
3718	Earned Wage Access Providers	0	0	0	25,000
3730	EXAMINATION FEES	0	0	0	56,250
	TOTAL REVENUES FOR BUDGET ACCOUNT 3835	0	0	0	81,250

Financial Institutions BDR 52-9

	Year 1	Year 2	Biennia
Application (BA 3805)	-	25,000.00	-
Initial License (BA 3835)	-	25,000.00	-
Renewal License (BA 3835)	-	-	50,000.00
Examination (BA 3835)	-	56,250.00	112,500.00
	$ -	$ 106,250.00	$ 162,500.00

TOTALS	Fee	# of Licensees	Total
RGL 3717 Application	$ 1,000.00	25	$ 25,000.00
RGL 3718 Initial License	$ 1,000.00	25	$ 25,000.00
RGL 3718 Renewal License	$ 1,000.00	25	$ 25,000.00
RGL 3730 Examination per hour	$ 75.00	25	$ 56,250.00
approx time for examination 30 hours			
		Total	$ 131,250.00

EXHIBIT 4

Jay DeVoy (NSBN 11950)
Matthew Morris (NSBN 15068)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, NV 89511
Tel: (775) 327-3000
Fax: (775) 786-6179
jmdevoy@hollandhart.com
mcmorris@hollandhart.com

Attorneys for Plaintiff DailyPay, Inc.

FIRST JUDICIAL DISTRICT COURT OF NEVADA
IN AND FOR CARSON CITY

DAILYPAY, INC., a Delaware Corporation

Plaintiff,

v.

The Honorable FRANCISCO V. AGUILAR, in his official capacity as Secretary of State for the State of Nevada;

Defendant.

Case No.

Dept. No.

DECLARATION OF MATTHEW MORRIS, ESQ., IN SUPPORT OF COMPLAINT

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

I, **Matthew Morris**, Esq., under penalty of perjury, and as required under FJDCR 3.14, hereby declare as follows:

1. I am an attorney at the law firm of Holland & Hart, LLP. I am an attorney in the State of Nevada, duly licensed and in good standing with the Nevada State Bar.

2. I represent the Plaintiff, DailyPay, Inc., in this action.

3. I submit this Declaration in support of the Plaintiff's Complaint for Declaratory and Injunctive Relief that is filed contemporaneously herewith.

4. The Complaint challenges the legality, lawfulness, and constitutionality of **Initiative Petitions S-01-2024 and S-03-2024**, filed on or about January 5, 2024 and January 24, 2024 with the Nevada Secretary of State's Office.

5. The Complaint is timely filed with this Court pursuant to NRS 295.061.

6. The factual allegations in the Complaint are true and correct based on knowledge and belief.

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

DATE: January 26, 2024

HOLLAND & HART LLP

~~Jay Devoy (NSBN 11950)~~
Matthew Morris (NSBN 15068)
5441 Kietzke Lane, 2nd Floor
Reno, NV 89511
Tel: (775) 327-3000
Fax: (775) 786-6179
jmdevoy@hollandhart.com
mcmorris@hollandhart.com

Attorneys for Plaintiff DailyPay, Inc.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

Joshua H. Reisman, Esq.
Nevada Bar No. 7152
Elizabeth M. Sorokac, Esq.
Nevada Bar No. 8270
Michael R. Kalish, Esq.
Nevada Bar No. 12793
REISMAN SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Telephone: (702) 727-6258
Facsimile: (702) 446-6756
Email: jreisman@rsnvlaw.com
Email: esorokac@rsnvlaw.com
Email: mkalish@rsnvlaw.com

Attorneys for *Plaintiffs*

D. ORTIZ

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

PREFERRED CAPITAL FUNDING - NEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation,

Plaintiffs,

vs.

FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual,

Defendants.

CASE NO. 24OC00003 1B
DEPT. NO. I

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CHALLENGING INITIATIVE PETITIONS S-01-2024 and S-03-2024

Priority Matter Pursuant to NRS 295.061(1)

Exempt from Arbitration: Action Seeking Declaratory and Injunctive Relief

Plaintiffs Preferred Capital Funding - Nevada, LLC, a Nevada limited liability company, and Alliance For Responsible Consumer Legal Funding, an Illinois nonprofit corporation, by and through their attorneys, Joshua H. Reisman, Esq., Elizabeth M. Sorokac, Esq., and Michael R. Kalish, Esq., of the law firm Reisman Sorokac, hereby complain against Defendants Francisco V.

REISMAN SOROKAC
8965 SOUTH EASTERN AVENUE, SUITE 382
LAS VEGAS, NEVADA 89123
PHONE: (702) 727-6258 FAX: (702) 4466756

Docket 88557 Document 2024-17423

Aguilar, in his official capacity as Nevada Secretary of State, and Kate Feldman, an individual, pursuant to NRS 295.061 and 30.010 et seq., as follows:

PARTIES

1. Plaintiff Preferred Capital Funding - Nevada, LLC is, and at all relevant times was, a Nevada limited liability company organized, existing and doing business in the State of Nevada to provide consumer litigation funding. Plaintiff Preferred Capital Funding – Nevada LLC has been licensed as a consumer litigation funding company since 2019 and its principal place of business is in Las Vegas, Nevada.

2. Plaintiff Alliance For Responsible Consumer Legal Funding is, and at all relevant times was, an Illinois nonprofit corporation organized and existing in the State of Illinois, and representing consumer litigation funding companies doing business in the State of Nevada.

3. Defendant Francisco V. Aguilar is the Nevada Secretary of State ("Secretary") and is sued in his official capacity.

4. Defendant Kate Feldman, an individual, is the individual that filed that certain (i) Notice of Intent Statewide Initiative or Referendum Petition designated as S-01-2024 entitled "Initiative Petition – Statewide Statutory Measure" ("Petition S-01") and (ii) Notice of Intent Statewide Initiative or Referendum Petition designated as S-03-2024 entitled "Initiative Petition – Statewide Statutory Measure" ("Petition S-03", together with Petition S-01, the "Petition") with the Secretary that is the subject of this Complaint.[1]

JURISDICTION

5. This Court has jurisdiction over this matter because Plaintiffs assert claims pursuant to NRS 295.061 and seek declaratory and injunctive relief pursuant to NRS 30.010 et seq.

[1] Petition S-03 was filed separately and designated separately by the Secretary. Petition S-03 restates Petition S-01 in its entirety, but it removes Sections 17 and 18 of Petition S-01 and a description of such sections in the Description of Effect. As of the date of this Complaint, Petition S-01 has not been withdrawn. As such, Plaintiffs are challenging Petition S-01 and Petition S-03.

REISMAN SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 446-6756

6. Venue is proper under NRS 13.020 and 13.040 because this action is against a public officer for acting in his official capacity, and is pursuant to NRS 295.061, which requires a complaint challenging a petition for initiative to be filed in the First Judicial District Court.

GENERAL ALLEGATIONS

7. On January 5, 2024, the Secretary received Petition S-01 from Defendant Kate Feldman. *See* Exhibit 1, a true and correct copy of Petition S-01.

8. On January 24, 2024, the Secretary received Petition S-03 from Defendant Kate Feldman. *See* Exhibit 2, a true and correct copy of Petition S-03.

9. Under Section 9 of the Petition, amongst other provisions, the Petition seeks to amend Nevada Revised Statutes by adding a new Chapter 604D to restrict any payday lender or other person from charging an annual percentage rate in excess of 36% on the unpaid balances of loans as such lenders and loans are defined in Sections 5 and 7 of the Petition (collectively, the "Catch-All Interest Rate Restrictions"). *See* Ex. 1 at 1-6, and Ex. 2 at 1-6.

10. Under Section 7 of the Petition, a payday lender or other person are broadly defined as such persons that:

> "1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;
>
> 2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;
>
> 3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;
>
> 4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

REISMAN·SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 446-6756

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means."

See Ex. 1 at 2-3, and Ex. 2 at 2-3.

11. Under Section 5 of the Petition, loans are broadly defined as:

"(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income."

See Ex. 1 at 1-2, Ex. 2 at 1-2.

12. In addition to the Catch-All Interest Rate Restrictions, the Petition also seeks to restrict lenders from charging an annual percentage rate in excess of 36% on the unpaid balances on specific loans and transactions listed in Sections 8, 15 and 16 (the, "Specific Interest Rate Restrictions"): (i) deferred deposit loans as defined in NRS 604A.050; (ii) high-interest loans as defined in NRS 604A.0703; (iii) title loans as defined in NRS 604A.105; (iv) refund anticipation loans as defined in NRS 604B.060; (v) consumer litigation funding transactions as defined in NRS 604C.100; (vi) installment loans as regulated by NRS Chapter 675; (vii) retail installment transactions as defined in NRS 97.115; (viii) loans secured by a life insurance or annuity contract

REISMAN SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 446-6756

as regulated by NRS 688A.110; (ix) all loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of the State of Nevada; (x) consumer credit extended to certain members of the military and dependents as regulated by NRS 99.050; and (xi) earned wage access services as regulated by Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. *See* Ex. 1 at 3-4, and 6-10, and Ex. 2 at 3-4, and 6-10.

13. In addition to the Specific Interest Rate Restrictions and the Catch-All Interest Rate Restrictions, the Petition seeks to cause the State of Nevada to opt out of Sections 521 to 523 of the Depository Institutions Deregulation and Monetary Control Act of 1980., 96 P.L. 221, 94 Stat. 132 ("Act"), to prevent lenders from applying any interest rates permitted by such Act to all loans made subject to the new NRS Chapter 604D as a result of the Petition (the, "Act Opt-Out Provision"). *See* Ex. 1 at 6, and Ex. 2 at 6.

14. Additionally, Petition S-01 seeks to (i) increase the minimum amount of money that is not subject to a writ of execution or garnishment levied against a personal bank account of a judgment debtor pursuant to NRS 21.105, and require such amount to be adjusted based on changes to the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region (the, "Garnishment Restrictions"), and (ii) remove civil immunity for a financial institution that makes an incorrect determination of whether money in the account of a judgment debtor is subject to execution pursuant to NRS 21.105 after applying commercially reasonable methods because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money (the, "Immunity Waiver"). *See* Ex. 1 at 10-12, and 18.

15. Lastly, Petition S-01 seeks to (i) increase the percentage of disposable earnings of a judgment debtor that are exempt from execution pursuant to NRS 21.090, and require such amount to be adjusted based on changes to the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region, and (ii) revise the definition of earnings as defined in NRS 21.090(1)(g)(2) to also include compensation payable for personal services performed by a

REISMAN SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 446-6756

judgment debtor whether such judgment debtor is an independent contractor or employee (collectively, the "Disposable Earnings Restrictions"). *See* Ex. 1 at 12-13, and 18.

16. Petition S-01 includes the following description of effect ("Petition S-01 Description"):

> "This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.
>
> Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation."

See Ex. 1 at 19.

17. Petition S-03 includes the following description of effect ("Petition S-03 Description", together with Petition S-01 Description, the "Description"):

> "This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties."

REISMAN SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 446-6756

See Ex. 2 at 11.

FIRST CAUSE OF ACTION

(Violation of NRS 295.009(1)(a))

18. Plaintiffs repeat and reallege each and every allegation contained above as though fully set forth herein.

19. A petition for initiative or referendum is required to "[e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto." NRS 295.009(1)(a).

20. "[A] petition for initiative or referendum embraces but one subject and matters necessarily connected therewith and pertaining thereto, if the parts of the proposed initiative or referendum are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative or referendum." NRS 295.009(2).

21. "[T]he single-subject requirement helps both in promoting informed decisions and in preventing the enactment of unpopular provisions by attaching them to more attractive proposals or concealing them in lengthy, complex initiatives (i.e., logrolling)." *Las Vegas Taxpayer Accountability v. City Council of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009) (quoting *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 905, 141 P.3d 1235, 1242 (2006)).

22. "[L]ogrolling 'occurs when two or more completely separate provisions are combined in a petition, one or both of which would not obtain enough votes to pass without the other.'" *Helton v. Nev. Voters First Pac*, 512 P.3d 309, 315 (Nev. 2022) (quoting *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 922, 141 P.3d 1235, 1254 (2006) (Hardesty, J., concurring and dissenting)).

23. The Catch-All Interest Rate Restrictions of the Petition broadly seek to limit the interest rate that is chargeable under essentially every conceivable loan transaction that is entered into between either in-state or out-of-state lenders with any of their consumers.

REISMAN SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 446-6756

REISMAN·SOROKAC
8965 SOUTH EASTERN AVENUE, SUITE 382
LAS VEGAS, NEVADA 89123
PHONE: (702) 727-6258 FAX: (702) 446-6756

24. In addition to the Catch-All Interest Rate Restrictions, the Specific Interest Rate Restrictions seek to limit the interest rate that is chargeable under eleven separate types of transactions, including loans and consumer litigation funding.

25. As such, the Catch-All Interest Rate Restrictions and the Specific Interest Rate Restrictions provisions of the Petition seek to embrace at least eleven different subjects.

26. Furthermore, the loans and consumer litigation funding transactions listed in the Specific Interest Rate Restrictions are utilized when consumers are in need of credit in specific types of transactions, and, the customary terms for such transactions are inherently different, including, the amount, term, repayment terms, collateral, and interest rate.

27. The legislature of the State of Nevada has deemed the transactions listed in the Specific Interest Rate Restrictions to be sufficiently distinct and unique to require that each of these such transactions be subject to separate statutory and licensing requirements, including, without limitation, consumer litigation funding transactions that are subject to NRS Chapter 604C.

28. Indeed, "[n]othing in [NRS Chapter 604C] shall be construed to cause any consumer litigation funding transaction conforming to this chapter to be deemed a loan or to be subject to any of the provisions of law governing loans. A consumer litigation funding transaction that complies with this chapter is not subject to any other statutory or regulatory provisions governing loans or investment contracts." NRS 604C.220(2).

29. As a result, the Catch-All Interest Rate Restrictions and the Specific Interest Rate Restrictions portions of the Petition are not functionally related or germane to each other.

30. Moreover, in addition to the at least eleven different subjects already embraced in the Catch-All Interest Rate Restrictions and the Specific Interest Rate Restrictions, the Petition also seeks to embrace four additional subjects through the inclusion of the (i) Act Opt-Out Provision, (ii) Garnishment Restrictions, (iii) Immunity Waiver, and (iv) Disposable Earnings Restrictions.

31. The subjects set forth in the Catch-All Interest Rate Restrictions and the Specific Interest Rate Restrictions are unquestionably separate from the Act Opt-Out Provision, Garnishment Restrictions, Immunity Waiver, and Disposable Earnings Restrictions.

32. Furthermore, the interest rate restrictions contained in the Catch-All Interest Rate Restrictions and the Specific Interest Rate Restrictions, which contain separate subjects therein, have no bearing on whether the State of Nevada should opt out of the Act, or on the amounts that are exempt from garnishment by a lender, or on the potential civil immunity for a lender's failure to determine what amounts are exempt from garnishment.

33. As such, the Act Opt-Out Provision, Garnishment Restrictions, Immunity Waiver, and Disposable Earnings Restrictions are not functionally related or germane to each other, the Catch-All Interest Rate Restrictions or the Specific Interest Rate Restrictions.

34. The inclusion of the separate subjects contained within the Catch-All Interest Rate Restrictions, Specific Interest Rate Restrictions, Act Opt-Out Provision, Garnishment Restrictions, Immunity Waiver, and Disposable Earnings Restrictions are an attempt to conceal unattractive proposals with proposals that the petitioner believes are more attractive to the voters of the State of Nevada.

35. Accordingly, for the reasons cited above, among other things, the Petition violates NRS 295.009(1)(a) and, therefore, is invalid.

SECOND CAUSE OF ACTION

(Violation of NRS 295.009(1)(b))

36. Plaintiffs repeat and re-allege each and every allegation contained above as though fully set forth herein.

37. A petition for initiative or referendum is required to "[s]et forth, in not more than 200 words, a description of the effect of the initiative or referendum if the initiative or referendum is approved by the voters." NRS 295.009(1)(b).

38. The purpose of the description of effect is to "prevent voter confusion and promote informed decisions." *Nevadans for Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006) (quoting *Campbell v. Buckley*, 203 F.3d 738, 746 (10th Cir. 2000)).

REISMAN SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 446-6756

39. "[A] description of effect must identify what the law proposes and how it intends to achieve that proposal." *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 42, 293 P.3d 874, 879 (2013).

40. A description of effect, including, the title of the petition, must be a "straightforward, succinct, and nonargumentative summary of an initiative's purpose and how that purpose is achieved." *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 48, 293 P.3d 874, 883 (2013) (quoting *Las Vegas Taxpayer Accountability v. City Council of Las Vegas*, 125 Nev. 165, 183, 208 P.3d 429, 441 (2009)). And, a description of effect must not "misrepresent what the initiative will accomplish and how it intends to achieve those goals." *Id* (quoting *Stumpf v. Lau*, 108 Nev. 826, 833, 839 P.2d 120, 124 (1992)).

41. A description of effect is invalid under NRS 295.009(1)(b) when it fails to include the effects of a petition. *See Las Vegas Taxpayer Accountability v. City Council of Las Vegas*, 125 Nev. 165, 183-184, 208 P.3d 429, 441 (2009) (holding that a description of effect was insufficient because it failed to accurately inform voters of the consequences that would result if the measure passed).

42. From the outset, the title of the Petition, which is entitled "Initiative Petition – Statewide Statutory Measure," fails to provide voters with any idea regarding the subject matter or potential effect of the Petition.

43. The Description states that the Petition is addressing "high-interest lending practices." *See* Ex. 1 at 19, and Ex. 2 at 11. High-interest loans are specifically defined in NRS 604A.0703 and do not include other loan products or types of transactions, such as consumer litigation funding transactions governed by NRS Chapter 604C. The Petition seeks not only to restrict high-interest loans but various types of transactions pursuant to the Catch-All Interest Rate Restrictions and Specific Interest Rate Restrictions. As such, the Description misleads voters into believing that the Petition will only address high-interest loans.

44. The Description states that "most consumer loans have no interest rate cap." *See* Ex. 1 at 19, and Ex. 2 at 11. However, a number of different transactions covered by the Petition, including consumer litigation funding transactions governed by NRS Chapter 604C, have interest

REISMAN SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 446-6756

rate restrictions. As such, the Description's general characterization of the nonexistence of interest rate caps misleads voters into believing that the majority of consumer loans and other types of transactions subject to the Petition and their corresponding interest rates are unregulated under Nevada law.

45. The Description states that the Petition's proposed interest rate cap applies to "consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income." *See* Ex. 1 at 19, Ex. 2 at 11. A consumer litigation funding transaction is a nonrecourse transaction where a consumer is provided funding from a funding company to help pay for living expenses, and in exchange, the consumer assigns to such funding company the right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained in the litigation being pursued by such consumer. *See* NRS 604C.100. Consumer litigation funding transactions by definition and nature are not loans. The State of Nevada legislature made clear that "[n]othing in [NRS Chapter 604C] shall be construed to cause any consumer litigation funding transaction conforming to this chapter to be deemed a loan or to be subject to any of the provisions of law governing loans." *See* NRS 604C.220(2). The Description mischaracterizes consumer litigation funding transactions as loans and includes them in the same category as loans.

46. Moreover, the Description fails to separately identify all of the other specific types of transactions set forth in the Specific Interest Rate Restrictions. The Description also fails to explain that the Petition seeks to place interest rate caps on various types of transactions, including consumer litigation funding transactions, pursuant to the Catch-All Interest Rate Restrictions. As such, the Description's mischaracterization of consumer litigation funding transactions as loans and its failure to clearly identify all transactions that are subject to the proposed interest rate cap prevents voters from determining what transactions are actually affected by such cap and will prevent voters from making informed decisions.

47. The Description fails to include any explanation of the potential impact of imposing the proposed interest rate cap under the Petition. Under the Catch-All Interest Rate Restrictions and Specific Interest Rate Restrictions, the Petition broadly imposes an interest rate

REISMAN SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 446-6756

cap on all loan transactions, which will likely require lenders to modify other terms of their transactions or require lenders to cease providing certain products to consumers. The Description misleads voters into believing that that the voters (the consumer borrowers) will not be impacted by the imposition of the interest rate cap proposed under the Petition.

48. The Petition S-01 Description states that the amounts exempt from garnishment under the Petition "would be indexed to increase periodically with inflation." *See* Ex. 1 at 19. However, the Disposable Earnings Restrictions and Garnishment Restrictions only permit adjustments one year after enactment, and then every three years thereafter, based on changes in the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region. If any deflation occurred in the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region, the Disposable Earnings Restrictions and Garnishment Restrictions require such amounts to be adjusted accordingly and do not prohibit any reductions in such amounts. The Description misleads voters into believing that amounts exempt from garnishment will continue to increase on a far more frequent basis than what is permitted under the Petition and that such amounts will never be decreased.

49. The Description fails to include any description of the Act or the effects of the Act Opt-Out Provision. The typical voter is not likely to be aware or have an understanding of the complex provisions of the Act, which was enacted over four decades ago, or the effect of the Act Opt-Out Provision. Voters cannot make an informed decision without a description of the same and, therefore, the Description is misleading.

50. Based on the foregoing, the Description fails to provide a straightforward, succinct and nonargumentative summary of the Petition, and it misrepresents the goals of the Petition and how it intends to accomplish the same.

51. Accordingly, for the reasons cited above, among other things, the Description violates NRS 295.009(1)(b) and, therefore, the Petition is invalid.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs asks the Court to enter an order:

REISMAN SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 446-6756

1. Declaring that the Petition embraces more than one subject and matters that are not necessarily connected therewith or pertaining thereto in violation of NRS 295.009(1)(a), and is therefore invalid;

2. Declaring that the Description (i) fails to provide a straightforward, succinct and nonargumentative summary of the Petition, and (ii) misrepresents the goals of the Petition and how it intends to accomplish the same, in violation of NRS 295.009(1)(b), and the Petition is therefore invalid;

3. Enjoining and prohibiting the Secretary from placing the Petition on any future general election ballot or from taking further action upon it;

4. Awarding Plaintiffs their reasonable attorneys' fees and costs; and

5. Granting such other relief as permitted under NRS Chapter 295 or as the Court deems appropriate.

DATED this 26th day of January, 2024.

REISMAN·SOROKAC

Joshua H. Reisman, Esq.
Nevada Bar No. 7152
Elizabeth M. Sorokac, Esq.
Nevada Bar No. 8270
Michael R. Kalish, Esq.
Nevada Bar No. 12793
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123

Attorneys for *Plaintiffs*

REISMAN·SOROKAC
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123
Phone: (702) 727-6258 Fax: (702) 4466756

AFFIRMATION

The undersigned hereby affirms that the foregoing document does not contain any personal information or the social security number of any person.

DATED this 26th day of January, 2024.

REISMAN·SOROKAC

Joshua H. Reisman, Esq.
Nevada Bar No. 7152
Elizabeth M. Sorokac, Esq.
Nevada Bar No. 8270
Michael R. Kalish, Esq.
Nevada Bar No. 12793
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123

Attorneys for *Plaintiffs*

REISMAN·SOROKAC
8965 SOUTH EASTERN AVENUE, SUITE 382
LAS VEGAS, NEVADA 89123
PHONE: (702) 727-6258 FAX: (702) 446-6756

EXHIBIT 1

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or
Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman _____ 1/4/2024

Signature of Petition Filer **Date**

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in *italics* is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business

under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9*

of this chapter, a person shall be subject to the requirements of this chapter notwithstanding the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees, ***provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes***. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), and is, or was at the time of the covered service

member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

Section 17. NRS 21.105 is hereby amended to read as follows:

~~[1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, $2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:~~

~~(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;~~

~~(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;~~

~~(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;~~

~~(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;~~

~~(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;~~

~~(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;~~

~~(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;~~

~~(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;~~

~~(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;~~

~~(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;~~

~~(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;~~

~~(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;~~

~~(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and~~

~~(n) Benefits provided pursuant to any other federal law.~~]

1[~~2~~]. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor [~~and the provisions of subsection 1 do not apply,~~] *$5,000* [~~400~~] or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor, unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.

2[~~3~~]. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 [~~or 2, as applicable~~].

3[4]. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1[~~, or 2~~].

4[~~5~~]. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection [1 ~~or 2~~] includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

5[~~6~~]. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination.[~~, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money.~~] If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

6[~~7~~]. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Section 18. NRS 21.090 is hereby amended to read as follows:

1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, ***$850 of disposable earnings. If the debtor's weekly disposable earnings exceed $850, 90% of disposable earnings in excess of $850 shall be exempt from garnishment unless the weekly disposable earnings of the debtor exceed $1,200, in which case 85% of the disposable earnings in excess of $850 shall be exempt from garnishment. The amount not subject to garnishment is exempt.***[~~82 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued was $770 or less, 75 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued exceeded $770, or 50 times the minimum hourly wage prescribed by section 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and in effect at the time the earnings are payable, whichever is greater.~~] Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor. ***Compensation paid or payable for personal services is earnings regardless of whether the judgment debtor is classified as an independent contractor or an employee.***

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all

furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including:

(1) Subject to the provisions of NRS 115.055, the sum of $605,000 that is paid to the defendant in execution pursuant to subsection 2 of NRS 115.050 or to a spouse pursuant to subsection 3 of NRS 115.050; and

(2) A homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $605,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $1,000,000 in present value, held in:

(1) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(2) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(3) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former

spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $10,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101 et seq., do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

4. The exemptions set forth in this section and NRS 21.105 shall be automatically adjusted to reflect changes by the percentage change, if any, from January 1st to December 31st of the preceding year in the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, beginning the April 1 following enactment and every 3 years thereafter. The Nevada Department of Business & Industry shall publish the 1-year adjustment for an effective date of April 1st for the following year. Adjustments made pursuant to this paragraph must be rounded up to the next $10.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

EXHIBIT 2

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman

Signature of Petition Filer

1-24-2024

Date

Explanation - Matter in ***italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS

672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9 of this chapter, a person shall be subject to the requirements of this chapter notwithstanding*

the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding

of interest if they choose, and for any other charges or fees, ***provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes***. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. §

1072(3), and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other

circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

EXHIBIT 3

Michael R. Kalish, Esq., declares as follows:

1. I am over the age of 18 years and have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

2. I am one of the counsels for Plaintiffs in this lawsuit.

3. I am an attorney, licensed to practice law before the Courts in the State of Nevada since 2012, and offer the following statements in support of *Plaintiffs' Complaint For Declaratory And Injunctive Relief Challenging Initiative Petitions S-01-2024 and S-03-2024*.

4. Attached to the Complaint as Exhibit 1 is a true and correct copy of the Notice of Intent Statewide Initiative or Referendum Petition designated as S-01-2024 entitled "Initiative Petition – Statewide Statutory Measure" that was downloaded from the Nevada Secretary of State's website at (https://www.nvsos.gov/sos/elections/2024-petitions), last visited: January 26, 2024.

5. Attached to the Complaint as Exhibit 2 is a true and correct copy of the Notice of Intent Statewide Initiative or Referendum Petition designated as S-03-2024 entitled "Initiative Petition – Statewide Statutory Measure" that was downloaded from the Nevada Secretary of State's website at (https://www.nvsos.gov/sos/elections/2024-petitions), last visited: January 26, 2024.

Pursuant to NRS 53.045, I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this 26th day of January, 2024.

Michael R. Kalish, Esq.

KAEMPFER CROWELL
Severin A. Carlson, No. 9373
Sihomara Graves, No. 13239
50 West Liberty Street, Suite 1100
Reno, Nevada 89501
Telephone: (775) 852-3900
Facsimile: (775) 327-2011
Email: scarlson@kcnvlaw.com
Email: sgraves@kcnvlaw.com

Attorneys for Plaintiffs Activehours, Inc.
and Stacy Press

RECD & FILED
2024 FEB 13 PM 3:54
WILLIAM SCOTT HOEN
CLERK
BY D. ORTIZ
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

ACTIVEHOURS, INC., a Delaware corporation, and STACY PRESS, an individual, Plaintiffs, vs. KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada nonprofit corporation, and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendants.	Case No. 24OC00029 1B Dept. No. I

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CHALLENGING INITIATIVE PETITION S-03-2024
(Priority Matter Pursuant to NRS 295.061(1)

Plaintiffs Activehours, Inc., a Delaware corporation registered to do business in Nevada, and Stacy Press, file this Complaint for Declaratory and Injunctive Relief against Defendants Kate Feldman, Stop Predatory Lending NV, a Nevada nonprofit corporation, and Francisco V. Aguilar, in his official capacity as Nevada Secretary of State, pursuant to NRS 295.061 and NRS 30.010. Plaintiff complains and alleges as follows:

Docket 88557 Document 2024-17423

PARTIES

1. Plaintiff Activehours Inc. is a Delaware corporation registered to do and doing business in the State of Nevada.

2. Plaintiff Stacy Press is a registered voter and resident of the State of Nevada.

3. Defendant Kate Feldman is, upon information and belief, a resident of the State of Nevada, who filed with the Nevada Secretary of State a Petition for Initiative on January 24, 2024, designated by the Secretary of State as S-03-2024.

4. Defendant Stop Predatory Lending NV is a Nevada nonprofit corporation registered to engage in political activity in the State of Nevada and, based on information and belief, is a proponent of the Petition for Initiative filed by Defendant Feldman.

5. Defendant Francisco V. Aguilar is the Nevada Secretary of State and under that capacity, is responsible for qualifying initiatives for submission to the Legislature and the electorate as well as disqualifying initiatives determined to be invalid.

JURISDICTION AND VENUE

6. The Court has jurisdiction over this action pursuant to NRS 295.061.

7. Venue is proper under NRS 295.061 which requires challenging petitions in this Court. Venue is also proper under NRS 13.020 and 13.040 because this action is against a public officer in his official capacity.

GENERAL ALLEGATIONS

Overview of the Petition

8. On or about January 24, 2024, Kate Feldman filed a Petition for Initiative with the Nevada Secretary of State, designated as S-03-2024 (the "Initiative"). *See* Ex. 1, Notice of Intent Statewide Initiative or Referendum Petition.

9. The Initiative seeks to amend the Nevada Revised Statutes by adding a new

Chapter, entitled: "Chapter 604D Preventing Payday and Other Loans Act," and by amending NRS 99.050 to reference this new proposed chapter.

10. The Initiative includes the following description of effect:

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

See Ex. 1, Notice of Intent Statewide Initiative or Referendum Petition at p. 11.

The Initiative Proposes to Add "NRS Chapter 604D, Preventing Predatory Payday and Other Loans Act" to the Nevada Revised Statutes

11. The Initiative proposes to add NRS Chapter 604D for the purpose of "combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities." *Id.* at Secs. 1–2.

12. Transactions from various chapters of Nevada Revised Statutes are included within the "transactions subject to" the Initiative, including: deferred deposit loans, high-interest loans, and title loans (NRS Chapter 604A), refund anticipation loans (NRS Chapter 604B.060); consumer litigation funding transactions (NRS Chapter 604C); installment loans (NRS Chapter 675); retail installment transactions (NRS Chapter 97); loans secured by a life insurance or annuity contract (NRS Chapter 688A); and loans made by a bank, savings bank, savings and loan

association, or credit union organized, chartered, or holding a certificate of authority to do business under Nevada law "notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710, NRS 673.3272, NRS 677.730 or any other provision of law." *Id.* at Sec. 8.

13. The Initiative further defines a "loan" as:

> (a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;
>
> (b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and
>
> (c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

Id. at Sec. 5.

14. The Initiative purports to set a maximum annual interest rate of 36% permitted for any loan or transaction subject to its proposed terms. *Id.* at Sec. 9.

FIRST CAUSE OF ACTION

(Violation of Single-Subject Requirement, NRS 295.009(1)(a))

15. Plaintiffs repeat and re-allege the allegations contained in the preceding paragraphs and incorporate them as though fully set forth here.

16. NRS 295.009(1)(a) requires that initiative petitions "[e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto."

17. For purposes of this requirement, "if the parts of the proposed initiative or referendum are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative

or referendum." NRS 295.009(2).

18. "The single-subject requirement 'facilitate the initiative process by preventing petition drafters from circulating confusing petitions that address multiple subjects." *Helton v. Nevada Voters First PAC*, 138 Nev. Adv. Op. 45, 512 P.3d 309, 314 (2022) (quoting *Nevadans for the Prot. Of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006)).

19. The Initiative violates the single-subject requirement because it addresses a multitude of subjects under the guise and stated objective of combatting predatory payday lending.

20. The Initiative embraces several subjects throughout its sections, all of which are subjects of their own respective Chapters of Nevada Revised Statutes.

21. For example, as set forth above, the "transactions" which are applicable in the Initiative include: deferred deposit loans, high-interest loans, and title loans, all addressed in NRS Chapter 604A; refund anticipation loans, addressed in NRS Chapter 604B; consumer litigation funding transactions addressed in NRS Chapter 604C; installment loans, addressed in NRS Chapter 675; retail installment transactions, addressed in NRS Chapter 97; loans secured by a life insurance or annuity contract, addressed in NRS Chapter 688A; loans made by a bank, savings bank, savings and loan association, or credit union, all addressed in NRS Chapters 662, 672, 673, and 677.

22. The Initiative does this with the caveat that the Initiative's proposed statutes will apply irrespective of what the corresponding statutes say, in essence abolishing those statutes.

23. The Initiative also effectively invalidates NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, and NRS 604A.5057 to the extent they conflict with the Initiative's proposed maximum interest rate permitted.

24. These provisions within the Initiative violate the single-subject requirement

because they constitute logrolling—they regulate separate conduct but are lumped together in the same petition by pairing unpopular or undesirable provisions with popular provisions under the moniker of "consumer protection."

25. The Initiative also includes earned wage access services within its framework, defining those services as "loans" and licensees of earned wage access services as "lenders."

26. These definitions are in direct conflict with SB 290, adopted in 2023 and not yet codified in the Nevada Revised Statutes, which expressly states that earned wage access services provided by a licensee shall not be construed as a loan or other form of credit, and earned wage access service licensees shall not be deemed a creditor, lender, or money transmitter. *See* Ex 2, Senate Bill 290 at p. 20, Sec. 33.

27. SB 290 further differentiates earned wage access services from those services under NRS Chapter 604A, including Nevada's Payday Lender Best Practices Act and from installment loans (NRS Chapter 675). Yet, both of these chapters are included as transactions subject to the Initiative. *See* Ex. 1, Initiative at Sec. 8, *compared to* Ex. 2, SB 290 at Secs. 34.5 and 35.5.

28. While the Initiative carves out an exception to earned wage access services prior to January 1, 2030, the exception only applies to section 9 of the Initiative—the maximum interest rate permitted (36%). It does not exempt earned wage access services from the remainder of the Initiative, including the definition of loan and the applicability of the chapter as a whole. Ex. 1, Initiative at Sec. 15.

29. The Initiative therefore encompasses multiple subjects in violation of NRS 295.009(1)(a)'s single-subject requirement.

SECOND CAUSE OF ACTION

(Violation of Description of Effect Requirement, NRS 295.009(1)(b))

30. Plaintiffs repeat and re-allege the allegations contained in the preceding paragraphs and incorporate them as though fully set forth here.

31. NRS 295.009(1)(b) requires that the Initiative "set forth, in not more than 200 words, a description of the effect of the initiative or referendum if the initiative or referendum is approved by the voters."

32. "A description of effect must be a straightforward, succinct, and nonargumentative summary of what the initiative is designed to achieve and how it intends to reach those goals." *Helton*, 138 Nev., Adv. Op. 45, 512 P.3d at 314.

33. A description must also sufficiently "explain the ramifications of the proposed amendment" to allow voters to make an informed decision. *Nev. Judges Ass'n v. Lau*, 112 Nev. 51, 59, 910 P.2d 26 898, 903 (1996).

34. Here, the Initiative's description of effect is legally deficient because it fails to explain the ramifications of the proposed Initiative such that Nevada voters would be able to make an informed decision.

35. The description of effect specifies that the Initiative addresses lending practices and consumer loans, outlining that it would apply to "consumer loans; deferred-deposit transactions; title loans; and other *loan* types dependent on future earnings and income." Yet, earned wage access services are not loans, nor are earned wage access service licensees lenders, but earned wage access services are included and would be impacted under the Initiative.

36. Worse, the description of effect expressly states it will apply to "other loan types dependent on *future earnings and income*," but the language of the Initiative encompasses "...compensation, or other income, or any portion or amount thereof, *whether earned, to be*

earned, or contingent upon future earnings. The description of effect therefore misleads voters into believing that it applies only to *loans* dealing with *future earnings*.

37. The description of effect therefore misleads voters because the Initiative purports to apply only to predatory loans and loans based on future earnings; nevertheless, the Initiative includes earned wage access services within its broad reach. The description of effect does not allow voters to make an informed decision as it pertains to earned wage access services and their inclusion in the Initiative as loans.

38. In addition, the Petition's description of effect specifies that it applies to and addresses "high-interest lending practices," yet high-interest loans are expressly defined by statute in NRS Chapter 604A. The Initiative, in contrast, includes many other lending practices not defined or acknowledged as "high-interest." The result is misleading voters into an assumption that the Initiative is intended to address only high-interest loans.

39. Because the description of effect does not include these important details, it does not sufficiently identify "what the law proposes and how it intends to achieve that proposal." *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013).

WHEREFORE, Plaintiffs Activehours, Inc. and Stacy Press pray for an Order as follows:

1. Declaring that the Initiative violates the single-subject requirement as set forth in NRS 295.009(1)(a);

2. Declaring that the Initiative's description of effect is misleading and does not sufficiently address what the Initiative proposes and how it intends to achieve that proposal, in violation of NRS 295.009(1)(b);

3. Enjoining and prohibiting the Nevada Secretary of State from taking further action upon the Initiative or placing the Initiative on the 2024 general election ballot;

4. For such other relief as the Court may deem just and proper.

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned affirms this document does not contain the personal information or social security number of any person.

KAEMPFER CROWELL



Severin A. Carlson, No. 9373
Sihomara Graves, No. 13239
50 West Liberty Street, Suite 1100
Reno, Nevada 89501

Attorneys for Plaintiffs Activehours, Inc. and Stacy Press

EXHIBIT INDEX

EXHIBIT	DESCRIPTION	PAGES
1	Notice of Intent Statewide Initiative or Referendum Petition	17
2	Senate Bill 290	28

EXHIBIT 1

EXHIBIT 1

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman

Signature of Petition Filer

1-24-2024

Date

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in ***italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS

672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9 of this chapter, a person shall be subject to the requirements of this chapter notwithstanding*

the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding

of interest if they choose, and for any other charges or fees, *provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes*. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. §

1072(3), and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other

circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by _____.

_____
Notary Public or person authorized to administer oath

EXHIBIT 2

EXHIBIT 2

*

Senate Bill No. 290–Senators Cannizzaro and Lange

CHAPTER.....

AN ACT relating to financial services; requiring a person who provides earned wage access services to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; authorizing the Commissioner, in furtherance of his or her duties with respect to the issuance and renewal of certain licenses, to participate in the Nationwide Multistate Licensing System and Registry; authorizing the Commissioner to take certain actions relating to participation in the Registry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-33.5 of this bill establish provisions relating to businesses that deliver to a person money that represents income that the person has earned but that has not yet been paid to the person. **Section 9** of this bill defines "employer-integrated earned wage access provider" as a person who provides such a service after verifying the earned income of the user through certain data provided by the user's employer, or a person who provides payroll services to that employer. **Section 3.1** of this bill defines a "direct-to-consumer earned wage access provider" as a person who provides such a service after verifying the earned income of the user through certain data that is not provided by the user's employer or a person who provides payroll services to that employer. **Section 10.6** of this bill defines "provider" to include an employer-integrated earned wage access provider and a direct-to-consumer earned wage access provider.

Section 12 of this bill prohibits a person from engaging in the business of a provider without a license issued by the Commissioner of Financial Institutions. **Sections 12-15** of this bill set forth certain requirements for licensure as a provider. **Section 16** of this bill requires each holder of a license as a provider to maintain a surety bond. **Sections 18-20** of this bill authorize the Commissioner to conduct certain examinations of licensees. **Section 21** of this bill requires the Commissioner to: (1) charge a fee for such examinations; (2) employ a certified public accountant to review and conduct independent audits and examinations of licensed providers; and (3) levy an assessment upon each licensed provider to cover the costs related to the employment of the certified public accountant and the performance of the audits and examinations.

Sections 10.1, 13.1-13.3 and 18.1 of this bill enact provisions to govern the licensing of providers through the Nationwide Multistate Licensing System and Registry developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and operated by the State Regulatory Registry, LLC. Under **section 37** of this bill, these provisions relating to the Registry become effective on the date that the Commissioner notifies the Governor and the Director of the Legislative Counsel Bureau that the Registry has sufficient capabilities to allow the Commissioner to carry out the provisions of law relating to the issuance and renewal of licenses through the Registry. (Chapter 347, Statutes of Nevada 2021, at page 2030)

Section 13.1 of this bill authorizes the Commissioner to: (1) in furtherance of his or her duties with respect to the issuance and renewal of licenses pursuant to this bill, to participate in the Registry; (2) require an applicant for licensure or a

licensee to submit a complete set of fingerprints when the Commissioner determines necessary; and (3) use the services of the Registry to process and to submit the fingerprints to the Federal Bureau of Investigation and certain other federal and state agencies for the purposes of conducting a criminal background check. **Section 13.1** also sets forth certain actions that the Commissioner is authorized to take concerning participation in the Registry, including, among others, requiring applicants for or holders of licenses to use the Registry to submit certain information and fees relating to licensure.

Section 13.2 of this bill requires each applicant for the issuance of a license and certain other persons to submit a complete set of fingerprints to the Registry. **Section 13.3** of this bill: (1) authorizes the Commissioner to issue a license through the Registry; and (2) provides that, to the extent that the Commissioner has delegated his or her duties with respect to the issuance or renewal of licenses as authorized under the provisions of this bill, references to the Commissioner in provisions of existing law governing the issuance or renewal of such licenses are deemed to be references to the Registry.

Section 17.1 of this bill authorizes the Commissioner to conduct any necessary investigations and hearings to determine whether any licensee or person has violated any provision of this bill or whether any licensee has conducted himself or herself in a manner which requires the suspension, revocation or denial of renewal of his or her license. In conducting such investigation or hearing, **section 17.1** authorizes the Commissioner to: (1) require the attendance and testimony of certain persons; (2) compel the production of certain documents; and (3) collect certain fees from each licensee or person.

Section 18.1 of this bill: (1) requires the Commissioner to report to the Registry certain information concerning violations of applicable laws by applicants for licenses and licensees; and (2) authorizes the Commissioner to enter into certain agreements or sharing arrangements with the Conference of State Bank Supervisors, the State Regulatory Registry, LLC, and certain other entities.

Sections 22 and 23 of this bill set forth certain procedures for disciplinary actions against a licensee or person who violates the provisions of this bill. **Section 25** of this bill sets forth a process for filing complaints against a licensee. **Sections 26 and 27** of this bill require a licensee to submit a notice to and obtain the approval of the Commissioner before taking certain actions. **Section 28** of this bill requires a licensee to submit certain information to the Commissioner annually. **Section 34** of this bill makes conforming changes relating to the confidentiality of the information collected by a governmental agency related to **sections 25 and 28**.

Section 29 of this bill sets forth certain requirements for the operation of a provider. **Section 31** of this bill, among other things, prohibits a provider from: (1) sharing certain fees, voluntary tips, gratuities or other donations with an employer; and (2) compelling or attempting to compel payment by a user through certain actions.

Section 33 of this bill provides that earned wage access services provided by a provider licensed pursuant to **sections 2-33.5** are not a loan or money transmission and are not subject to any provisions of existing law governing loans and money transmitters. **Sections 34.5-35.5** of this bill provide that the provisions of existing law governing persons engaged in the business of transmitting money or certain loans do not apply to a provider.

Section 32 of this bill authorizes the Commissioner to adopt regulations for the administration and enforcement of **sections 2-33.5**. **Sections 36 and 36.1** of this bill requires the Commissioner to: (1) on or before December 31, 2025, submit a report to the Legislature containing certain information relating to the regulation of

earned wage access services; and (2) prescribe the form and content of an application for a license to provide earned wage access services.

Section 36.2 of this bill authorizes a person who, as of January 1, 2023, was engaged in the business of providing earned wage access services to continue to engage in that business without obtaining a license pursuant to **sections 2-33.5** until December 31, 2024, if the person submits an application for such a license before January 1, 2024.

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

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 33.5, inclusive, of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Commissioner" means the Commissioner of Financial Institutions.***

Sec. 3.1. ***"Direct-to-consumer earned wage access provider" means a person who is engaged in the business of providing direct-to-consumer earned wage access services.***

Sec. 3.2. ***"Direct-to-consumer earned wage access services" means the delivery to a user of an advance of earned but unpaid income based on data that is not employment, income or attendance data obtained directly from an employer or an employer's payroll service provider.***

Sec. 4. ***1. "Earned but unpaid income" means salary, wages, compensation or other income that:***

(a) A user or employer has represented, and a provider has reasonably determined to have been, earned or accrued to the benefit of the user in exchange for the user's provision of services to the employer or on behalf of the employer; and

(b) Has not been paid to the user by the employer at the time a provider delivers the payment of the proceeds to a user.

2. The term includes, without limitation, salary, wages, compensation or other income earned:

(a) On an hourly, project-based, piecework or other basis.

(b) Through services rendered as an independent contractor.

Secs. 5 and 6. (Deleted by amendment.)

Sec. 7. *1. "Earned wage access services" means the delivery to a user of money that represents earned but unpaid income.*

2. The term includes both employer-integrated earned wage access services and direct-to-consumer earned wage access services.

Sec. 8. *1. "Employer" means:*

(a) A person who employs a user; or

(b) Any other person who is contractually obligated to pay a user any earned but unpaid income.

2. The term does not include:

(a) A customer of an employer; or

(b) Any other person whose obligation to make a payment of salary, wages, compensation or other income to a user is not based on the provision of services by that user for or on behalf of such person.

Sec. 9. *1. "Employer-integrated earned wage access provider" means a person who is engaged in the business of offering to provide or providing employer-integrated earned wage access services.*

2. The term does not include payroll service providers, including, without limitation, payroll service providers whose role may include verifying the available earnings but who are not contractually obligated to fund earned wage access service proceeds to a user.

Sec. 9.1. *"Employer-integrated earned wage access services" means the delivery to a user of access to earned but unpaid income determined based on employment, income or attendance data obtained directly or indirectly from an employer, including, without limitation, an employer's payroll service provider.*

Sec. 9.2. *1. "Fee" includes:*

(a) A fee imposed by a provider for delivery or expedited delivery of proceeds to a user; and

(b) A subscription or membership fee imposed by a provider for a bona fide group of services that include earned wage access services.

2. The term does not include a voluntary tip, gratuity or donation.

Sec. 10. *"Licensee" means a person who has been issued one or more licenses to engage in the business of:*

1. An employer-integrated earned wage access provider; or

2. A direct-to-consumer earned wage access service provider.

Sec. 10.1. *"Nationwide Multistate Licensing System and Registry" or "Registry" means a multistate licensing system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and operated by the State Regulatory Registry, LLC, for the licensing and registration of non-depository financial service entities by participating state agencies, or any successor to the Nationwide Multistate Licensing System and Registry.*

Sec. 10.2. *"Outstanding proceeds" means proceeds remitted to a user by a provider that have not yet been repaid to that provider.*

Sec. 10.4. *"Preauthorized electronic fund transfer" has the meaning ascribed to it in 12 C.F.R. § 1005.2(k).*

Sec. 10.5. *"Proceeds" means a payment delivered to a user by a provider that is based on earned but unpaid income.*

Sec. 10.6. *1. "Provider" means a person who is engaged in the business of providing earned wage access services, including a direct-to-consumer earned wage access provider and an employer-integrated earned wage access provider.*

2. The term does not include payroll service providers, including, without limitation, payroll service providers whose role may include verifying available earners but who are not contractually obligated to fund proceeds to a user.

Sec. 11. *"User" means a natural person residing in this State who receives earned wage access services.*

Sec. 12. *1. A person shall not engage in the business of a provider unless the person has been issued a license by the Commissioner pursuant to this section.*

2. A person who wishes to be licensed as a provider must submit to the Commissioner the application fee established pursuant to subsection 7, and an application, on a form prescribed by the Commissioner, which must contain:

(a) The name and address of the applicant;

(b) A copy of the proposed terms and conditions of use which will govern the provision of earned wage access services by the applicant, which must include, without limitation, a statement by the applicant that he or she will provide services in accordance with the applicable provisions of the federal Electronic Fund Transfer Act 15 U.S.C. §§ 1693 et. seq., and the regulations thereunder;

(c) A copy of the policy of the applicant relating to the privacy of information concerning users;

(d) A schedule of fees proposed to be charged to a user or employer for the provision of earned wage access services, which must include, without limitation, a statement identifying at least one option for a user to obtain earned wage access services from the applicant at no cost to the user;

(e) A statement that the applicant is applying to be licensed as an employer-integrated earned wage access provider or a direct-to-consumer earned wage access provider, or both;

(f) Financial statements of the applicant for the immediately preceding year that have been audited by an independent certified public accountant; and

(g) Any other information required by any regulations adopted by the Commissioner pursuant to section 32 of this act.

3. Upon receipt of the application for licensure and when satisfied that the applicant is entitled thereto, the Commissioner shall notify the applicant of the Commissioner's approval of the application and issue to the applicant a license as a provider that contains a unique license number. A licensee shall prominently display the license on the Internet website of the licensee.

4. Except as otherwise provided by regulation of the Commissioner, a license issued pursuant to this section expires on December 31 of each year unless it is earlier surrendered, suspended or revoked.

5. The license may be renewed annually upon approval of the Commissioner if the licensee, on or after November 1 and on or before December 31 of each year, files an application conforming to the requirements for an initial application.

6. An application for the annual renewal of the license must be accompanied by a fee of not more than $1,000. No investigation fee may be charged for the renewal of the license. If the application or fee for renewal is not filed within the required time, the Commissioner may reinstate the expired license if the licensee files the application, submits the fee for renewal and submits a fee of not more than $1,000 for late renewal, if applicable, on or before February 28 of the year following the expiration date of the license.

7. The Commissioner shall adopt regulations establishing the amount of fees required pursuant to this section. The fees for the application, initial license, and license renewal shall not exceed $1,000. All fees collected pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

8. A license issued pursuant to this section is not transferrable or assignable.

9. This section does not apply to a depository institution in which the deposits are federally insured up to applicable limits.

Sec. 13. *1. In addition to any other requirements set forth in this chapter, each applicant for licensure as a provider must submit:*

(a) Proof satisfactory to the Commissioner that the applicant:

(1) Is competent to transact the business of a provider.

(2) Has not made a false statement on the application for the license.

(3) Has not committed any of the acts specified in subsection 2.

(4) Has not had a license as a provider suspended or revoked within the 10 years immediately preceding the date of the application.

(5) Has not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(b) If the applicant is a corporation or association:

(1) The name and address of each of the directors, trustees and principals of the corporation and of any stockholder who owns 25 percent or more of the applicant's stock;

(2) If required by the Commissioner, a complete set of fingerprints for submission to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national or international background check on the criminal history of the principal officers of the corporation or association, which must include a written statement authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(3) If required by the Commissioner, information concerning the personal history and experience of the principal officers of the corporation or association; and

(4) If required by the Commissioner, information related to any administrative, civil or criminal findings made by any governmental jurisdiction concerning the principal officers of the corporation or association.

(c) If the applicant is a natural person:

(1) Proof satisfactory to the Commissioner that the applicant is at least 21 years of age;

(2) Proof satisfactory to the Commissioner that the applicant is a citizen of the United States or lawfully entitled to work in the United States; and

(3) A complete set of his or her fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant for licensure as a provider if the applicant:

(a) Has committed or participated in any act for which, if committed or done by a licensee, would be grounds for the suspension or revocation of the license.

(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.

(c) Has participated in any act which was a basis for the refusal or revocation of a license pursuant to this chapter.

(d) Has falsified any of the information submitted to the Commissioner in support of the application for the license.

Sec. 13.1. *1. The Commissioner may, in furtherance of his or her duties with respect to the issuance and renewal of licenses pursuant to this chapter, participate in the Nationwide Multistate Licensing System and Registry. The Commissioner may take any action with respect to participation in the Registry that the Commissioner deems necessary to carry out his or her duties, including, without limitation:*

(a) Facilitating and participating in the establishment and implementation of the Registry;

(b) Establishing relationships or contracts with the Registry or other entities designated by the Registry;

(c) Authorizing the Registry to collect and maintain records of applicants for licenses and licensees;

(d) Authorizing the Registry to, on behalf of the Commissioner, collect and process any fees associated with licensure, examinations, fines, assessments and any other similar fees;

(e) Requiring an applicant for a license or a licensee to use the Registry to:

(1) Apply for the issuance or renewal of a license;

(2) Amend or surrender a license;

(3) Submit any reports or the results of any examination that the Commissioner may require;

(4) Pay any applicable fees; and

(5) Engage in any other activity that the Commissioner may require; and

(f) Authorizing the Registry to, on behalf of the Commissioner, collect fingerprints in order to receive or conduct a background check on the criminal history of an applicant for a license or a licensee.

2. The Commissioner may require an applicant for a license or a licensee to submit a complete set of fingerprints when the Commissioner determines necessary. The Commissioner may use the services of the Registry to process and to submit the fingerprints to the Federal Bureau of Investigation, to the Central Repository for Nevada Records of Criminal History, to any federal or state law enforcement agency or to any other entity authorized to receive such information for the purpose of conducting a background check of the criminal history of an applicant for a license or a licensee.

3. An applicant for a license or a licensee shall, in addition to any other fees associated with the license, pay all applicable charges to use the Registry, including, without limitation, any processing charges established by the administrator of the Registry.

4. The Commissioner may adopt any regulations the Commissioner determines to be necessary or appropriate to carry out the provisions of this section. Such regulations may, without limitation, establish additional procedures and requirements for participation in the Registry.

5. The provisions of this section shall not be construed to replace or affect the authority of the Commissioner to grant, deny, suspend, terminate, revoke or refuse to renew a license.

Sec. 13.2. *1. In addition to any other requirements set forth in this chapter, each applicant for the issuance of a license pursuant to this chapter and each owner, officer, director and responsible person of the applicant, each person in control of the applicant and any other person the Commissioner may require in accordance with guidelines of the Registry or other multistate agreements shall submit to the Registry:*

(a) A complete set of fingerprints for submission to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national

and international background check on the criminal history of the person;

(b) Information concerning the personal history, financial history and experience of the person in a form prescribed by the Registry, including, without limitation, an authorization of the person for the Registry and the Commissioner to obtain:

(1) An independent credit report and credit score from a consumer reporting agency described in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f), for the purpose of evaluating the financial responsibility of the person at the time of the submission of the application; and

(2) Additional independent credit reports and credit scores to confirm that the person continues to comply with any applicable requirements concerning financial responsibility;

(c) Information related to any administrative, civil or criminal findings made by any governmental jurisdiction concerning the person; and

(d) Any other information concerning the person that the Registry or the Commissioner may require.

2. As used in this section:

(a) "Control" has the meaning ascribed to it in NRS 682A.047.

(b) "Responsible person" means a person who is employed by an applicant and who has principal, active managerial authority over the provision of services in this State.

Sec. 13.3. *1. Each licensee shall register with and maintain a valid unique identifier with the Registry.*

2. The Commissioner may issue a license through the Registry.

3. To the extent that the Commissioner has delegated to the Registry any of his or her duties with respect to the issuance and renewal of licenses as authorized by the provisions of this chapter, any reference to the Commissioner in this chapter shall be deemed to be a reference to the Registry.

4. As used in this section, "unique identifier" means a number or other identifier assigned by the protocols established by the Registry.

Sec. 14. *1. In addition to the requirements set forth in sections 12 and 13 of this act, a natural person who applies for the issuance or renewal of a license as a provider shall:*

(a) Include the social security number of the applicant in the application submitted to the Commissioner; and

(b) Submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department

of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to paragraph (b) of subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license as a provider may not be issued or renewed by the Commissioner if the applicant:

(a) Fails to submit the statement required pursuant to paragraph (b) of subsection 1; or

(b) Indicates on the statement submitted pursuant to paragraph (b) of subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to paragraph (b) of subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 15. *1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a provider, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. The Commissioner shall reinstate a license as a provider that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose

license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 16. *1. Each licensee shall have in force a surety bond payable to the State of Nevada in the amount of $35,000.*

2. The bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of earned wage access services.

3. A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against the licensee by any creditor or claimant arising out of the business of a provider of earned wage access services in this State, give notice thereof to the Commissioner by registered or certified mail with details sufficient to identify the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

4. Whenever the principal sum of the bond is reduced by recoveries or payments thereon, the licensee shall furnish:

(a) A new or additional bond so that the total or aggregate principal sum of the bonds equals the sum required pursuant to subsection 1; or

(b) An endorsement, duly executed by the surety, reinstating the bond to the required principal sum.

5. The liability of the surety on a bond to a creditor or claimant is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.

6. The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after:

(a) The death of the licensee or the dissolution or liquidation of the business of the licensee; or

(b) The termination of the bond,

➥ whichever occurs first.

Sec. 17. *Each license as a provider shall remain in full force and effect until it expires or is surrendered, revoked or suspended as provided in this chapter and the regulations adopted pursuant thereto.*

Sec. 17.1. *1. The Commissioner may conduct any necessary investigations and hearings to determine whether any*

licensee or other person has violated any of the provisions of this chapter or whether any licensee has conducted himself or herself in a manner which requires the suspension, revocation or denial of renewal of his or her license.

2. In conducting any investigation or hearing pursuant to this chapter, the Commissioner, or any person designated by the Commissioner, may require the attendance and testimony of any person and compel the production of all relevant books, records, accounts and other documents.

Sec. 18. *1. For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the Commissioner or his or her duly authorized representative may, at any time, examine the books, accounts, papers and records that are used or created in connection with the activities covered by the license of:*

(a) Any licensee;

(b) Any other person engaged in the business of a provider or participating in such business as a principal, agent, broker or otherwise; and

(c) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purposes of examination, the Commissioner or his or her authorized representative shall have and be given reasonable access to the offices and places of business, and the files, safes and vaults of such persons.

3. For the purposes of this section, any person who advertises for, solicits or holds himself or herself out as willing to provide earned wage access services is presumed to be engaged in the business of a provider and must obtain a license from the Commissioner.

4. This section does not entitle the Commissioner or his or her authorized representative to investigate the business or examine the books, accounts, papers or records of any attorney who is not a person described in subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his or her capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 18.1. *1. Subject to any limitations or restrictions contained in federal or state law governing the privacy or*

confidentiality of records, the Commissioner shall report regularly any violations of applicable laws committed by applicants for licenses or licensees, enforcement actions and other relevant information to the Registry.

2. The requirements under any federal or state law, including, without limitation, rules of a federal or state court, regarding the privacy and confidentiality of any information or material provided to the Registry and any privilege arising under federal or state law with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with oversight authority over licensees without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

3. The Commissioner may enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the State Regulatory Registry, LLC, or other associations representing governmental agencies.

Sec. 19. *1. The Commissioner may require the attendance of any person and examine him or her under oath regarding:*

(a) Any licensee; or

(b) The subject matter of any audit, examination, investigation or hearing.

2. The Commissioner may require the production of books, accounts, papers and records for any audit, examination, investigation or hearing.

Sec. 20. *The Commissioner or his or her authorized representative may at least annually make an examination of the place of business of each licensee and of the transactions, books, accounts, papers and records of the person as they pertain to the business of a provider and its activities conducted pursuant to a license issued pursuant to this chapter.*

Sec. 21. *1. The Commissioner shall charge and collect from each licensee a fee at the rate established and, if applicable, adjusted pursuant to NRS 658.101 for the cost of any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.*

2. The Commissioner shall employ a certified public accountant to review and conduct independent audits and examinations of licensed providers. The Commissioner shall levy an assessment upon each licensed provider to cover all the costs related to the employment of the certified public accountant and the performance of the audits and examinations.

3. All money collected by the Commissioner pursuant to subsections 1 and 2 must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 22. *1. If the Commissioner finds that probable cause for revocation of a license of a licensee exists and that enforcement of this chapter requires immediate suspension of such a license pending investigation, he or she may, upon 5 days' written notice and a hearing, enter an order suspending the license for a period of not more than 20 days, pending a hearing about the revocation.*

2. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exists, he or she shall notify the licensee not later than 20 days before the date of the hearing. Such notice must state the contemplated action and, in general, the grounds thereof and set a date for a hearing.

Sec. 23. *1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, the Commissioner may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.*

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $50,000 upon a person who conducts any business or activity without a license and for which a license is required pursuant to the provisions of this chapter.

Sec. 24. (Deleted by amendment.)

Sec. 25. *1. A user, an attorney for a user or any other person who believes that any provision of this chapter has been violated may file a complaint with the Commissioner. Such a complaint must include:*

(a) The full name and address of the person filing the complaint;

(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred, including, without limitation, the date, time and place of the alleged violation and the name of each person involved in the alleged violation; and

(c) A certification by the person filing the complaint that the facts alleged in the complaint are true to the best knowledge and belief of the person.

2. Upon receipt of a complaint filed pursuant to subsection 1, the Commissioner shall send a copy of the complaint to the accused licensee. The licensee, or an authorized representative of the licensee, shall file a verified answer to the complaint within 10 business days after receipt of the complaint, unless for good cause shown, the Commissioner extends the time for a period of not more than 30 days. If the licensee, or an authorized representative of the licensee, fails to file a verified answer within the time required by this subsection, the licensee shall be deemed to have admitted to the allegations contained in the complaint.

3. The Commissioner may make investigations and conduct hearings concerning complaints filed with the Commissioner pursuant to this section.

4. Except as otherwise provided in this section, a complaint filed with the Commissioner pursuant to subsection 1, all documents and other information filed with the complaint and all documents, reports and other information resulting from the investigation of the complaint are confidential and may be disclosed only as the Commissioner deems necessary to administer the provisions of this chapter.

Sec. 26. *1. A licensee shall not make any of the following changes unless the licensee has obtained the prior approval of the Commissioner in accordance with the provisions of this section:*

(a) A change in the ownership of 25 percent or more of the capital stock or other equivalent ownership interest of the licensee;

(b) A change in control of the licensee;

(c) A change in the name of the licensee, including the name under which the licensee is doing business; or

(d) A change in the principal business address of the licensee or in the address of any office of the licensee in this State.

2. A licensee who wishes to make any change described in subsection 1 must, not less than 10 business days before the date on which the change is to occur, submit a notice to the Commissioner. Such notice must include any information that the Commissioner may require.

3. Upon receipt of a notice submitted pursuant to subsection 2, the Commissioner shall approve or disapprove the proposed change. The Commissioner may disapprove a proposed change if, in the reasonable judgment of the Commissioner, the proposed

change is inconsistent with the requirements of this chapter. If the Commissioner does not respond to a licensee who submits a notice pursuant to subsection 2, including, without limitation, any request by the Commissioner for additional information from the licensee, within 10 business days of the date on which the notice was submitted, the proposed change shall be deemed approved.

4. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of the licensee.

Sec. 27. *In addition to the notice requirements set forth in section 26 of this act, a licensee must, before making a change in the principal officers or directors of a licensee, submit a notice to the Commissioner within a time period prescribed by the Commissioner. If the submission of such a notice is not possible before the change due to the unilateral resignation of a principal officer or director or other similar circumstance, the licensee must submit to the Commissioner a notice as promptly as possible after such a change. If, in the reasonable judgment of the Commissioner, the change in the principal officers or directors of the licensee is inconsistent with the requirements of this chapter, the Commissioner may require the licensee to take such action as the Commissioner deems necessary to ensure compliance with the provisions of this chapter.*

Sec. 28. *1. On or before April 15 of each year, a licensee shall submit to the Commissioner a report containing, as applicable to the licensee:*

(a) Except as otherwise provided in subsection 2, financial statements for the immediately preceding year that have been audited by an independent certified public accountant;

(b) A copy of each complaint that has been filed by a user who received earned wage access services in this State in the immediately preceding year against the licensee with the Better Business Bureau or the Consumer Financial Protection Bureau and a description of the resolution, if any, of each such complaint;

(c) The total amount of charges paid by users for earned wage access services in the preceding year in this State;

(d) The total number of users in this State who did not receive earned wage access services in the immediately preceding year but who paid a subscription fee or membership fee imposed by a provider for a bona fide group of services that include earned wage access services, including the total amount of subscription fees and membership fees paid by those users in the immediately preceding year;

(e) The total number of users in this State who participated in 12 or more earned wage access transfers provided by the licensee in the immediately preceding year; and

(f) Any other information required by the Commissioner pursuant to regulations adopted pursuant to this chapter.

2. If audited financial statements are not available to a licensee on or before April 15 in any year, the licensee may satisfy the requirements of paragraph (a) of subsection 1 by submitting to the Commissioner:

(a) Unaudited financial statements on or before April 15; and

(b) Audited financial statements when such statements become available to the licensee.

3. Except as otherwise provided in this section, all documents and other information filed with the Commissioner are confidential and may be disclosed only as the Commissioner and the licensee mutually deem necessary to administer the provisions of this section.

4. The Commissioner shall annually publish and make available to the public an aggregated and anonymized analysis of the information submitted as required pursuant to this section.

Sec. 29. *A provider shall:*

1. Develop and implement policies and procedures to respond to questions raised by users and address complaints from users in an expedient manner;

2. Before entering into an agreement with a user for the provision of earned wage access services:

(a) Inform the user of his or her rights under the agreement; and

(b) Fully and clearly disclose all fees associated with the earned wage access services;

3. Allow the user to cancel, at any time and without incurring a fee, his or her participation in an agreement for the provision of earned wage access services;

4. Comply with all local, state and federal privacy and information security laws;

5. If the provider solicits, charges or receives a tip, gratuity or donation from a user:

(a) Conspicuously disclose or cause to be disclosed to the user that any tip, gratuity or donation paid by the user does not inure to the direct benefit of any specific employee of the provider or any other person; and

(b) Conspicuously provide an option for the user to select zero as an amount for such tip, gratuity or donation;

6. If a provider seeks payment of outstanding proceeds, fees or other payments including, without limitation, voluntary tips, gratuities or other donations from a user's account at a depository institution, including through a preauthorized electronic fund transfer:

(a) Comply with the applicable provisions of the Federal Electronic Fund Transfer Act and regulations thereunder; and

(b) Reimburse the user for the full amount of any overdraft or non-sufficient funds fee imposed on a user by the user's depository institution that were caused by the provider attempting to seek payment of any outstanding proceeds, fees or other payments, including, without limitation, voluntary tips, gratuities or other donations on a date before, or in an incorrect amount from, the date or amount disclosed to the user; and

7. The requirements set forth in paragraphs (a) and (b) of subsection 6 do not apply to any payments of outstanding amounts or fees incurred by a user through fraudulent or other unlawful means.

Sec. 30. (Deleted by amendment.)

Sec. 31. *1. A provider shall not:*

(a) Share with an employer any fees, voluntary tips, gratuities or other donations that were received from or charged to a user for earned wage access services;

(b) Use a user's consumer credit report, as defined in NRS 686A.630, or a user's credit score to determine the user's eligibility for earned wage access services;

(c) Charge a late fee, deferral fee, interest or any other penalty or charge for failure to pay outstanding proceeds, fees, voluntary tips, gratuities or other donations;

(d) Report any information about the user regarding the inability of the provider to be repaid outstanding proceeds, fees, voluntary tips, gratuities or any other donations to a consumer agency or debt collector;

(e) Compel or attempt to compel payment by a user of outstanding proceeds, fees, voluntary tips, gratuities or other donations to the provider through any of the following means:

(1) A civil action against the user in any court of competent jurisdiction;

(2) Use of a third party to pursue collection from the user on the provider's behalf; or

(3) Sale or assignment of outstanding amounts to a third-party collector or debt buyer for collection from the user.

2. The limitations set forth in paragraph (e) of subsection 1 shall not preclude the use by a provider of any of the foregoing methods specified in paragraph (e) of subsection 1 to compel or attempt to compel payment of outstanding amounts or fees incurred by a user through fraudulent or other unlawful means, nor shall they preclude a provider from pursuing an employer for breach of its contractual obligations to the provider.

Sec. 32. *The Commissioner may adopt regulations for the administration and enforcement of this chapter, in addition to and not inconsistent with this chapter. Such regulations may include, without limitation, requirements relating to the retention of records by a provider.*

Sec. 33. *1. Nothing in this chapter shall be construed to cause:*

(a) Any earned wage access services provided by a licensee in compliance with this chapter to be deemed:

(1) A loan or other form of credit;

(2) As violating or noncompliant with the laws of this State governing the sale or assignment of, or an order of, earned but unpaid income; or

(3) A money transmission, or to be subject to any of the provisions of law governing loans or money transmitters;

(b) Any licensee in compliance with this chapter to be deemed a creditor, lender or money transmitter; and

(c) Any fee provided to a consumer by a provider in compliance of this chapter to be deemed an interest or finance charge.

2. If there is a conflict between the provisions of this chapter and any other statute, the provisions of this chapter control.

Sec. 33.5. *The proceeds provided to a consumer by a provider in accordance with this chapter shall not be subject to the provisions of chapter 604A or 675 of NRS. A provider of the proceeds shall not be required to be licensed pursuant to chapters 604A and 675 of NRS unless the provider is conducting business pursuant to chapter 604A or 675 of NRS.*

Sec. 34. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,

116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116, 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209,

449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830, 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283, 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055, 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158, 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087, 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185, 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217, 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760, 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, ***and sections 25 and 28 of this act,*** sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or

memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

(1) Was not created or prepared in an electronic format; and

(2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require

the person who has requested the copy to prepare the copy himself or herself.

Sec. 34.5. NRS 604A.250 is hereby amended to read as follows:

604A.250 The provisions of this chapter do not apply to:

1. Except as otherwise provided in NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage companies, thrift companies or insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than $2; and

(b) Does not hold himself or herself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.

9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

13. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

14. A seller of real property who offers credit secured by a mortgage of the property sold.

15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

16. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

17. A provider licensed to provide earned wage access services pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

Sec. 35. NRS 671.020 is hereby amended to read as follows:

671.020 1. This chapter does not apply to any:

(a) Bank, its parent or holding company or any subsidiary thereof, trust company, savings bank, savings and loan association, credit union, industrial bank or industrial loan and investment company, organized and regulated under the laws of this state or of the United States;

(b) Foreign banking corporation licensed to do banking business in this state; ~~[or]~~

(c) Telegraph company providing a public message service ~~[.]~~ ***;***

or

(d) A provider who is licensed pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

2. Subsection 1 does not reduce or alter any liability otherwise attaching to the sale, issuance, receipt for transmission or transmission of checks or money in any form.

Sec. 35.5. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. Except as otherwise provided in NRS 675.035, a person doing business under the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit

unions, mortgage companies, thrift companies, pawnbrokers or insurance companies.

2. A real estate investment trust, as defined in 26 U.S.C. § 856.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

5. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

6. Except as otherwise provided in this subsection, any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

7. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

8. A seller of real property who offers credit secured by a mortgage of the property sold.

9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.

10. A person licensed to do business pursuant to chapter 604A of NRS with regard to those services regulated pursuant to chapter 604A of NRS.

11. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

12. Except as otherwise required by the Director of the Department of Business and Industry pursuant to NRS 657A.430 or 657A.620, a participant in the Regulatory Experimentation Program for Product Innovation established and administered pursuant to chapter 657A of NRS.

13. A provider of earned wage access services who is licensed to provide earned wage access services pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

Sec. 36. 1. On or before December 31, 2025, the Commissioner of Financial Institutions shall prepare and submit a report to the Director of the Legislative Counsel Bureau for

transmittal to the Legislature which includes an analysis of and any recommendations concerning earned wage access services and potential changes to regulations governing earned wage access services that may be warranted.

2. As used in this section, "earned wage access services" has the meaning ascribed to it in section 7 of this act.

Sec. 36.1. 1. On or before September 30, 2023, the Commissioner shall prescribe the form and content of an application for a license to provide earned wage access services pursuant to sections 2 to 33.5, inclusive, of this act.

2. As used in this section, "earned wage access services" has the meaning ascribed to it in section 7 of this act.

Sec. 36.2. 1. Notwithstanding the amendatory provisions of this act, a person who, as of January 1, 2023, was engaged in the business of providing earned wage access services in this State may, until December 31, 2024, continue to engage in the business of providing earned wage access services in this State without obtaining a license pursuant to sections 2 to 33.5, inclusive, of this act if the person submits an application for such a license before January 1, 2024, and otherwise complies with this act.

2. As used in this section, "earned wage access services" has the meaning ascribed to it in section 7 of this act.

Sec. 36.4. As soon as practicable after determining that the Nationwide Multistate Licensing System and Registry, as defined in section 10.1 of this act, has sufficient capabilities to allow the Commissioner of Financial Institutions to carry out the amendatory provisions of sections 2 to 33.5, inclusive, of this act, the Commissioner of Financial Institutions shall notify the Governor and the Director of the Legislative Counsel Bureau of that fact, and shall publish notice to the public of that fact on the Internet website of the Division of Financial Institutions of the Department of Business and Industry.

Sec. 37. 1. This section and section 36.4 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, 10.2 to 13, inclusive, 14, 15, 16, 17.1, 18 and 19 to 36.2, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2024, for all other purposes.

3. Sections 10.1, 13.1, 13.2, 13.3 and 18.1 of this act become effective on the date on which the Commissioner of Financial Institutions, pursuant to section 36.4 of this act, notifies the

Governor and the Director of the Legislative Counsel Bureau that the Nationwide Multistate Licensing System and Registry, as defined in section 10.1 of this act, has sufficient capabilities to allow the Commissioner to carry out the provisions of sections 2 to 33.5, inclusive, of this act.

4. Section 17 of this act becomes effective on January 1, 2024.

5. Sections 1 to 13, inclusive, and 16 to 36, inclusive, of this act expire by limitation on December 31, 2029.

6. Sections 14 and 15 of this act expire by limitation on the earlier of December 31, 2029, or the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has the authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

KAEMPFER CROWELL
Severin A. Carlson, No. 9373
Sihomara Graves, No. 13239
50 West Liberty Street, Suite 1100
Reno, Nevada 89501
Telephone: (775) 852-3900
Facsimile: (775) 327-2011
Email: scarlson@kcnvlaw.com
Email: sgraves@kcnvlaw.com

Attorneys for Plaintiffs Activehours, Inc. and Stacy Press

RECD & FILED
2024 FEB 13 PM 3:55
WILLIAM SCOTT HOEN
CLERK
BY D. ORTIZ
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

ACTIVEHOURS, INC., a Delaware corporation, and STACY PRESS, an individual, Plaintiffs, vs. KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada nonprofit corporation, and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendants.	Case No. 24PC00039 1D Dept. No. I

BRIEF IN SUPPORT OF COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CHALLENGING INITIATIVE PETITION S-03-2024

Plaintiffs Activehours, Inc., a Delaware corporation registered to do business in Nevada, and Stacy Press, submit their motion in support of their Complaint for Declaratory and Injunctive Relief Challenging Initiative Petition S-03-2024 because the Initiative violates Nevada's single-subject requirement and has a legally deficient description of effect. This brief is made pursuant to NRS 295.061 and is based on the underlying Complaint, the attached exhibits, and the following points and authorities.

Docket 88557 Document 2024-17423

I. INTRODUCTION

The Petition for Initiative, designated as S-03-2024 (the "Initiative") violates the requirements set forth in NRS 295.009. The Initiative violates Nevada's single subject requirement, which requires initiatives address only one subject, on at least two grounds. First, the Initiative includes various different loan types within its proposed language, all of which are separate and distinct subject matters addressed through their own chapter of the Nevada Revised Statutes. Nevertheless, the Initiative lumps them into one category. Second, the Initiative treats and defines earned wage access services as loans and its licensees as lenders despite Nevada law unequivocally categorizing them otherwise, further showing that the Initiative addresses more than one "subject."

The Initiative's description of effect is also legally deficient because it purports to address only "loans," yet the Initiative includes within its language earned wage access services which are not loans under Nevada law. The Initiative fails to inform voters that by including earned waged access services, it is effectively amending Nevada's recently passed Senate Bill 290, or even abolishing it all together. It instead tells voters it deals with "high-interest loans" despite including transactions that are expressly excluded from that definition in Nevada because factually, earned wage access services do not charge interest, let alone "high-interest." These defects render the Initiative invalid, requiring declaratory and injunctive relief to preclude the Nevada Secretary of State from taking further action upon the Initiative.

II. THE PETITION FOR INITIATIVE

A. Overview of the Initiative.

On or about January 24, 2024, Defendant Kate Feldman filed the Initiative with the Nevada Secretary of State. *See* Ex. 1, Initiative. The Initiative seeks to amend the Nevada Revised Statutes by adding a new Chapter entitled: "Chapter 604D: Preventing Payday and Other Loans

Act," and by amending NRS 99.050 to reference this new proposed chapter.

The Initiative includes the following description of effect:

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Id. at p. 11.

B. The Initiative Proposes to Add "NRS Chapter 604D, Preventing Predatory Payday and Other Loans Act" to the Nevada Revised Statutes

The Initiative's named objective for the proposed Preventing Predatory Payday and Other Loans Act is "combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities." Ex. 1, Initiative at Sec. 2. The Initiative defines the "loans" subject to the proposed Chapter as:

> (a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;
>
> (b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and
>
> (c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount

> thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, other income.

Id. at Sec. 5.

The Initiative also includes within its purview any transaction for deferred deposit loans, high-interest loans, and title loans, all addressed in NRS Chapter 604A; refund anticipation loans, addressed in NRS Chapter 604B; consumer litigation funding transactions addressed in NRS Chapter 604C; installment loans, addressed in NRS Chapter 675; retail installment transactions, addressed in NRS Chapter 97; loans secured by a life insurance or annuity contract, addressed in NRS Chapter 688A; loans made by a bank, savings bank, savings and loan association, or credit union, all addressed in NRS Chapters 662, 672, 673, and 677. *Id.* at Sec. 8. It does so with the caveat that the Initiative's proposed statutes will apply irrespective of what the corresponding statutes say. *Id.* The Initiative then proposes to cap the interest rate associated with these loans and transactions, notwithstanding any other provision of law, to 36%. *Id.* at Sec. 9.

C. SB 290 Establishes Nevada's Framework for Earned Wage Access Services.

During the 2023 Legislative Session, Senate Bill 290 ("SB 290") was signed into law. SB 290 establishes provisions related to earned wage access services. *See* Ex. 2, SB 290. SB 290 defines earned wage access services as "the delivery to a user of money that represents earned but unpaid income." *Id.* at Sec. 7. Earned but unpaid income includes "earned or accrued" income that has "not been paid to the user by the employer at the time a provider delivers the payment of the proceeds to a user." *Id.* at Sec. 4. SB 290 controls who can provide earned wage access services to users by requiring licensure through the Nevada Commissioner of Financial Institutions. *Id.* at Sec. 12.

Under SB 290, a provider of earned wage access services must provide to the Commissioner a schedule of fees to be charged to a user of earned wage access services, "which must include, without limitation, a statement identifying at least one option for a user to obtained earned wage access services from the applicant at no cost to the user." *Id.* at Sec. 12(2)(d). Providers of earned wage access services are also prohibited from using a user's credit report or credit score to determine eligibility to earned wage access services. *Id.* at Sec. 31(b). They are further prohibited from charging "a late fee, deferral fee, interest or any other penalty or charge for failure to pay outstanding proceeds, fees, voluntary tips, gratuities or other donations," or reporting a user's failure to pay to a consumer agency or debt collector. *Id.* at Sec. 31(c)–(d).

Section 33 of SB 290 further provides that:

> 1. Nothing in this chapter shall be construed to cause:
> (a) Any earned wage access services provided by a licensee in compliance with this chapter to be deemed:
> (1) A loan or other form of credit;
> (2) As violating or noncompliant with the laws of this State governing the sale or assignment of, or an order of, earned but unpaid income; or
> (3) A money transmission, or to be subject to any of the provisions of law governing loans or money transmitters;
> (b) Any licensee in compliance with this chapter to be deemed a creditor, lender or money transmitter; and
> (c) Any fee provided to a consumer by a provider in compliance of this chapter to be deemed an interest or finance charge.
> 2. If there is a conflict between the provisions of this chapter and any other statute, the provisions of this chapter control.

Id. at Sec. 33.

III. ARGUMENT

A. Legal Standard

NRS 295.061 permits challenges to a proposed initiative when the initiative fails to embrace "but one subject and matters necessarily connected therewith and pertaining thereto." It also permits challenging an initiative whose description of effect fails to comply with the

requirements set forth by NRS 295.009(1)(b).

B. The Initiative Violates NRS 295.009's Single-Subject Requirement.

The Initiative embraces multiple subjects within its proposed amendments to Nevada Revised Statutes, in violation of NRS 295.009. An initiative petition embraces one subject "if the parts of the proposed initiative or referendum are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative or referendum." NRS 295.009(2). This requirement prohibits petition drafters from circulating confusing petitions that address multiple subjects. *See Helton v. Nevada Voters First PAC*, 138 Nev. Adv. Op. 45, 512 P.3d 309, 314 (2022) ("The single-subject requirement facilitates the initiative process by preventing petition drafters from circulating confusing petitions that address multiple subjects.") The single-subject requirement also prevents voter deception by deterring the "logrolling" of undesired provisions into a desired initiative and helps insulate Nevada's law from sudden and uninformed change. *Id.* ("The single-subject requirement helps both in promoting informed decisions and in preventing the enactment of unpopular provisions by attaching them to more attractive proposals or concealing them in lengthy, complex initiatives (i.e., logrolling)."); *see also Stumpf v. Lau*, 108 Nev. 826, 839 P.2d 120 (1992) (holding an initiative's failure to present a single subject "effectively prevented signers from knowing what they were signing.").

To determine whether an initiative complies with the single-subject requirement, courts first determine "the initiative's purpose or subject and then determine if each provision is functionally related and germane to each other and the initiative's purpose or subject." *Helton*, 138 Nev., Adv. Op. 45, 512 P.3d at 314. Courts will also consider whether the description of effect articulates an overarching purpose and explains how provisions relate to a single subject. *Id.*

Here, the Initiative violates the single-subject requirement because the Initiative (i) addresses a broad range of "loans" already addressed by various other Chapters in Nevada Revised Statutes; and (ii) defines earned wage access in a manner contrary to current Nevada law.

1. The Initiative Proposes to Amend Multiple Existing Statutory Chapters.

The Initiative embraces a multitude of subjects throughout its first 15 sections, all of which are subjects of their own respective Chapters of the Nevada Revised Statutes. For example, the "transactions" which are applicable in the Initiative include: deferred deposit loans, high-interest loans, and title loans, all addressed in NRS Chapter 604A; refund anticipation loans, addressed in NRS Chapter 604B; consumer litigation funding transactions addressed in NRS Chapter 604C; installment loans, addressed in NRS Chapter 675; retail installment transactions, addressed in NRS Chapter 97; loans secured by a life insurance or annuity contract, addressed in NRS Chapter 688A; loans made by a bank, savings bank, savings and loan association, or credit union, all addressed in NRS Chapters 662, 672, 673, and 677. It does so with the caveat that the Initiative's proposed statutes will apply *irrespective of* what the corresponding statutes say, in essence abolishing those statutes. It also effectively invalidates NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, and NRS 604A.5057 to the extent they conflict with the Initiative's proposed maximum interest rate permitted. These provisions amount to logrolling because they regulate separate conduct but are lumped together in the same petition, concealing certain provisions with seemingly popular provisions under the moniker of "consumer protection."

The amount of existing statutory law addressing the various types of "loans" and financial service offerings referenced in the Initiative underscores the breadth of the Initiative and illustrates that it does not contain a single subject. Nevada law does not treat all of the transactions the Initiative tries to capture as a single subject. Nevertheless, the Initiative defines "high-interest loans" to include transactions that Nevada Law has distinguished from that very definition. *See*

NRS 604A.0703 (Excluding from the definition of "high-interest loan" deferred deposit loans, refund anticipation loans, and title loans.) Still, the Initiative lumps together this variety of subject matter governed by multiple other statutes without articulating the connecting factor between the statues[1].

This shortcoming is highlighted by the terms the Initiative uses but does not define such as "predatory," "payday lender," and "disguised loan." Nevada's current Payday Lender Best Practices Act is limited to deferred deposit loan services, high-interest loan services, and title loan services. NRS 604A.515. Thus, it is unclear how the additional categories referenced by the Initiative functionally relate to its stated objective of addressing high-interest lending practices. All of this together effectively prevents signers and voters from making an informed decision on the Initiative and its various effects on Nevada's current laws.

2. The Initiative Defines and Treats Earned Wage Access in a Manner Contrary to Current Nevada Law.

The Initiative seeks to include earned wage access services within its framework; however, Nevada law specifies that earned wage access services are not loans. Thus, its inclusion amounts to an embracing and addressing of multiple subjects under the assertion of protecting against high-interest lending practices. Contrary to the purpose of the Initiative of setting a

---

[1] The First Judicial District Court's decision in *Donna Washington, et al. vs. Francisco V. Aguilar, et al.*, Case No. 23 OC 00115 1B is telling. In that case, the Court struck down a proposed initiative to amend the Nevada Constitution citing, among other things, violation of the single-subject requirement. There, the petitioner sought to address "reproductive health" with references to various Nevada statues on subjects such as birth control, post-partum and pre-natal care, tubal ligation, vasectomies, and infertility care, all subjects of their own respective chapters of the Nevada Revised Statutes. *Id.* at p. 7, ¶ 12. The Court determined the proposed amendment violated the single-subject requirement because "[t]he legislature could not reduce 'reproductive health' into a single statute, let alone a single chapter, and therefore had to compartmentalize this broad swath of conduct into multiple statues contained in various parts of the Nevada Revised Statutes. The Petition addresses all of this conduct in several paragraphs without an articulable framework."

maximum interest rate to predatory loans, earned wage access service providers are prohibited from charging interest on outstanding proceeds and are instead required to offer users a no cost option to obtain earned wage access services. Ex. 2, SB 290 at Secs. 12 and 31. In fact, Section 33 of SB 290 expressly states that earned wage access services provided by a licensee shall not be construed as a loan or other form of credit and earned wage access service licensees shall not be deemed a creditor, lender or money transmitter. *Id.* at Sec. 33. It further clarifies that in the event of a conflict between SB 290 and any other chapter of Nevada Revised Statute, SB 290 controls. *Id.* In contrast, the Initiative directly includes earned wage access services within its definition of "loan." Ex. 1, Initiative at Sec. 5(1)(a) and (c). And while not defined, it also applies to any "payday lender" or "other person" that "markets, offers, brokers, arranges, facilitates, makes or services a loan," as defined by the Initiative. *Id.* at Sec. 7(1). In other words, it would define and treat an earned wage access service licensee as a lender in contravention of SB 290.

SB 290 further differentiates earned wage access services from those services under NRS Chapter 604A, including Nevada's Payday Lender Best Practices Act. *Id.* at Sec. 34.5. It also distinguishes earned wage access services from installment loans (NRS Chapter 675). *Id.* at Sec. 35.5. Yet, both of these chapters are included as transactions subject to the Initiative. The Initiative fails to explain how earned wage access services are functionally related to its stated objective of preventing predatory *lending* when Nevada does not recognize them as loans at all, and in fact expressly rejects that classification.

While the Initiative attempts to clear this hurdle by carving out an exception to earned wage access services prior to January 1, 2030, the exception only applies to section 9 of the Initiative—the maximum interest rate permitted (36%). It does not exempt earned wage access services from the remainder of the Initiative, including the definition of loan and the applicability of the chapter as a whole. The Initiative does not attempt to address the inclusion of earned wage

access services under its stated objective of preventing predatory lending, amounting to logrolling an amendment to SB 290, if not a full on referendum of SB 290, under the guise of a consumer protection initiative.

C. The Initiative's Description of Effect Violates NRS 295.009.

The Initiative also violates Nevada law in its description of effect. NRS 295.009(1)(b) provides that the initiative petition must set forth in no more than 200 words "a description of effect of the initiative." "A description of effect must be a straightforward, succinct, and nonargumentative summary of what the initiative is designed to achieve and how it intends to reach those goals." *Helton*, 138 Nev., Adv. Op. 45, 512 P.3d at 316. The description of effect cannot be either deceptive or misleading. *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013). A description of effect must also sufficiently "explain the ramifications of the proposed amendment" to allow voters to make an informed decision. *Nev. Judges Ass'n v. Lau*, 112 Nev. 51, 59, 910 P.2d 26 898, 903 (1996). While a description of effect does not need to explain every possible effect, it must, at a minimum, accurately describe the main consequences of the initiative. *See, e.g., Las Vegas Taxpayer Accountability Comm.*, 125 Nev. at 184, 208 4 P.3d at 441 (finding description of effect materially misleading where it "materially fails to accurately identify the consequences of the referendum's passage.")

Here, the description of effect is legally deficient because it fails to explain the ramifications of the proposed amendments to Nevada law such that Nevada voters would be able to make an informed decision. For example, the description specifies it addresses lending practices and consumer loans, outlining that it would apply to "consumer loans; deferred-deposit transactions; title loans; and other *loan types dependent on future earnings and income*." (emphasis added). The description of effect does not portray what the Initiative proposes, as the Initiative includes, within its broad definition of loan, earnings, "whether earned, to be earned, or contingent

upon future earnings." The Initiative does not limit its grasp to only future earnings. Not only that, as set forth above, the Nevada legislature just passed a bill explaining that earned wage access services *are not loans*, nor are earned wage access service licensees lenders. SB 290 does not even permit earned wage access services to charge interest on outstanding balances. Nevertheless, earned wage access services are included and would be impacted under the Initiative's self-proclaimed address of "high-interest lending practices by establishing maximum interest rates charged to consumers." The description of effect therefore fails to inform voters the Initiative would in effect revoke SB 290. It does not allow voters to make an informed decision as it pertains to earned wage access services and their inclusion in the Initiative.

In addition, the description of effect outlines that the Initiative will affect "high-interest lending." Yet, high-interest loans are defined by Nevada statute at 604A.0703 and expressly exclude deferred deposit loans, refund anticipation loans, and title loans. The Initiative, in contrast, includes many other lending practices not defined or acknowledged as "high-interest," including deferred deposit loans, refund anticipation loans, and title loans. Ex. 1, Initiative at Sec. 8. The result is misleading voters into an assumption that the Initiative is intended to address only high-interest loans.

Because it does not include these important details, the Initiative's description of effect fails to sufficiently identify what the law proposes and how it intends to achieve that proposal. These omissions render the petition's description of effect legally deficient under Nevada law.

IV. CONCLUSION

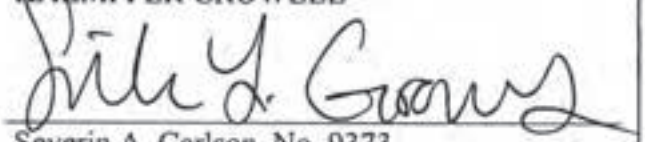
The Initiative is legally deficient; not only does the Initiative address a multitude of subjects, in violation of Nevada's single-subject requirement, it also presents a description of effect which fails to fully portray material effects which would result by adopting the Initiative.

As a result and as set forth more fully above, the Nevada Secretary of State should be enjoined from taking further action upon it.

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned affirms this document does not contain the personal information or social security number of any person.

KAEMPFER CROWELL



Severin A. Carlson, No. 9373
Sihomara Graves, No. 13239
50 West Liberty Street, Suite 1100
Reno, Nevada 89501

Attorneys for Plaintiffs Activehours, Inc. and Stacy Press

EXHIBIT INDEX

EXHIBIT	DESCRIPTION	PAGES
1	Initiative	17
2	Senate Bill 290	28

EXHIBIT 1

EXHIBIT 1

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman

Signature of Petition Filer

1-24-2024

Date

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in ***italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS

672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9 of this chapter, a person shall be subject to the requirements of this chapter notwithstanding*

the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding

of interest if they choose, and for any other charges or fees, *provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes*. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10. title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. §

1072(3), and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other

circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

EXHIBIT 2

EXHIBIT 2

*

Senate Bill No. 290–Senators Cannizzaro and Lange

CHAPTER.....

AN ACT relating to financial services; requiring a person who provides earned wage access services to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; authorizing the Commissioner, in furtherance of his or her duties with respect to the issuance and renewal of certain licenses, to participate in the Nationwide Multistate Licensing System and Registry; authorizing the Commissioner to take certain actions relating to participation in the Registry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-33.5 of this bill establish provisions relating to businesses that deliver to a person money that represents income that the person has earned but that has not yet been paid to the person. **Section 9** of this bill defines "employer-integrated earned wage access provider" as a person who provides such a service after verifying the earned income of the user through certain data provided by the user's employer, or a person who provides payroll services to that employer. **Section 3.1** of this bill defines a "direct-to-consumer earned wage access provider" as a person who provides such a service after verifying the earned income of the user through certain data that is not provided by the user's employer or a person who provides payroll services to that employer. **Section 10.6** of this bill defines "provider" to include an employer-integrated earned wage access provider and a direct-to-consumer earned wage access provider.

Section 12 of this bill prohibits a person from engaging in the business of a provider without a license issued by the Commissioner of Financial Institutions. **Sections 12-15** of this bill set forth certain requirements for licensure as a provider. **Section 16** of this bill requires each holder of a license as a provider to maintain a surety bond. **Sections 18-20** of this bill authorize the Commissioner to conduct certain examinations of licensees. **Section 21** of this bill requires the Commissioner to: (1) charge a fee for such examinations; (2) employ a certified public accountant to review and conduct independent audits and examinations of licensed providers; and (3) levy an assessment upon each licensed provider to cover the costs related to the employment of the certified public accountant and the performance of the audits and examinations.

Sections 10.1, 13.1-13.3 and 18.1 of this bill enact provisions to govern the licensing of providers through the Nationwide Multistate Licensing System and Registry developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and operated by the State Regulatory Registry, LLC. Under **section 37** of this bill, these provisions relating to the Registry become effective on the date that the Commissioner notifies the Governor and the Director of the Legislative Counsel Bureau that the Registry has sufficient capabilities to allow the Commissioner to carry out the provisions of law relating to the issuance and renewal of licenses through the Registry. (Chapter 347, Statutes of Nevada 2021, at page 2030)

Section 13.1 of this bill authorizes the Commissioner to: (1) in furtherance of his or her duties with respect to the issuance and renewal of licenses pursuant to this bill, to participate in the Registry; (2) require an applicant for licensure or a

licensee to submit a complete set of fingerprints when the Commissioner determines necessary; and (3) use the services of the Registry to process and to submit the fingerprints to the Federal Bureau of Investigation and certain other federal and state agencies for the purposes of conducting a criminal background check. **Section 13.1** also sets forth certain actions that the Commissioner is authorized to take concerning participation in the Registry, including, among others, requiring applicants for or holders of licenses to use the Registry to submit certain information and fees relating to licensure.

Section 13.2 of this bill requires each applicant for the issuance of a license and certain other persons to submit a complete set of fingerprints to the Registry. **Section 13.3** of this bill: (1) authorizes the Commissioner to issue a license through the Registry; and (2) provides that, to the extent that the Commissioner has delegated his or her duties with respect to the issuance or renewal of licenses as authorized under the provisions of this bill, references to the Commissioner in provisions of existing law governing the issuance or renewal of such licenses are deemed to be references to the Registry.

Section 17.1 of this bill authorizes the Commissioner to conduct any necessary investigations and hearings to determine whether any licensee or person has violated any provision of this bill or whether any licensee has conducted himself or herself in a manner which requires the suspension, revocation or denial of renewal of his or her license. In conducting such investigation or hearing, **section 17.1** authorizes the Commissioner to: (1) require the attendance and testimony of certain persons; (2) compel the production of certain documents; and (3) collect certain fees from each licensee or person.

Section 18.1 of this bill: (1) requires the Commissioner to report to the Registry certain information concerning violations of applicable laws by applicants for licenses and licensees; and (2) authorizes the Commissioner to enter into certain agreements or sharing arrangements with the Conference of State Bank Supervisors, the State Regulatory Registry, LLC, and certain other entities.

Sections 22 and 23 of this bill set forth certain procedures for disciplinary actions against a licensee or person who violates the provisions of this bill. **Section 25** of this bill sets forth a process for filing complaints against a licensee. **Sections 26 and 27** of this bill require a licensee to submit a notice to and obtain the approval of the Commissioner before taking certain actions. **Section 28** of this bill requires a licensee to submit certain information to the Commissioner annually. **Section 34** of this bill makes conforming changes relating to the confidentiality of the information collected by a governmental agency related to **sections 25 and 28**.

Section 29 of this bill sets forth certain requirements for the operation of a provider. **Section 31** of this bill, among other things, prohibits a provider from: (1) sharing certain fees, voluntary tips, gratuities or other donations with an employer; and (2) compelling or attempting to compel payment by a user through certain actions.

Section 33 of this bill provides that earned wage access services provided by a provider licensed pursuant to **sections 2-33.5** are not a loan or money transmission and are not subject to any provisions of existing law governing loans and money transmitters. **Sections 34.5-35.5** of this bill provide that the provisions of existing law governing persons engaged in the business of transmitting money or certain loans do not apply to a provider.

Section 32 of this bill authorizes the Commissioner to adopt regulations for the administration and enforcement of **sections 2-33.5**. **Sections 36 and 36.1** of this bill requires the Commissioner to: (1) on or before December 31, 2025, submit a report to the Legislature containing certain information relating to the regulation of

earned wage access services; and (2) prescribe the form and content of an application for a license to provide earned wage access services.

Section 36.2 of this bill authorizes a person who, as of January 1, 2023, was engaged in the business of providing earned wage access services to continue to engage in that business without obtaining a license pursuant to **sections 2-33.5** until December 31, 2024, if the person submits an application for such a license before January 1, 2024.

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

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 33.5, inclusive, of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Commissioner" means the Commissioner of Financial Institutions.***

Sec. 3.1. ***"Direct-to-consumer earned wage access provider" means a person who is engaged in the business of providing direct-to-consumer earned wage access services.***

Sec. 3.2. ***"Direct-to-consumer earned wage access services" means the delivery to a user of an advance of earned but unpaid income based on data that is not employment, income or attendance data obtained directly from an employer or an employer's payroll service provider.***

Sec. 4. ***1. "Earned but unpaid income" means salary, wages, compensation or other income that:***

(a) A user or employer has represented, and a provider has reasonably determined to have been, earned or accrued to the benefit of the user in exchange for the user's provision of services to the employer or on behalf of the employer; and

(b) Has not been paid to the user by the employer at the time a provider delivers the payment of the proceeds to a user.

2. The term includes, without limitation, salary, wages, compensation or other income earned:

(a) On an hourly, project-based, piecework or other basis.

(b) Through services rendered as an independent contractor.

Secs. 5 and 6. (Deleted by amendment.)

Sec. 7. *1. "Earned wage access services" means the delivery to a user of money that represents earned but unpaid income.*

2. The term includes both employer-integrated earned wage access services and direct-to-consumer earned wage access services.

Sec. 8. *1. "Employer" means:*

(a) A person who employs a user; or

(b) Any other person who is contractually obligated to pay a user any earned but unpaid income.

2. The term does not include:

(a) A customer of an employer; or

(b) Any other person whose obligation to make a payment of salary, wages, compensation or other income to a user is not based on the provision of services by that user for or on behalf of such person.

Sec. 9. *1. "Employer-integrated earned wage access provider" means a person who is engaged in the business of offering to provide or providing employer-integrated earned wage access services.*

2. The term does not include payroll service providers, including, without limitation, payroll service providers whose role may include verifying the available earnings but who are not contractually obligated to fund earned wage access service proceeds to a user.

Sec. 9.1. *"Employer-integrated earned wage access services" means the delivery to a user of access to earned but unpaid income determined based on employment, income or attendance data obtained directly or indirectly from an employer, including, without limitation, an employer's payroll service provider.*

Sec. 9.2. *1. "Fee" includes:*

(a) A fee imposed by a provider for delivery or expedited delivery of proceeds to a user; and

(b) A subscription or membership fee imposed by a provider for a bona fide group of services that include earned wage access services.

2. The term does not include a voluntary tip, gratuity or donation.

Sec. 10. *"Licensee" means a person who has been issued one or more licenses to engage in the business of:*

1. An employer-integrated earned wage access provider; or

2. A direct-to-consumer earned wage access service provider.

Sec. 10.1. *"Nationwide Multistate Licensing System and Registry" or "Registry" means a multistate licensing system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and operated by the State Regulatory Registry, LLC, for the licensing and registration of non-depository financial service entities by participating state agencies, or any successor to the Nationwide Multistate Licensing System and Registry.*

Sec. 10.2. *"Outstanding proceeds" means proceeds remitted to a user by a provider that have not yet been repaid to that provider.*

Sec. 10.4. *"Preauthorized electronic fund transfer" has the meaning ascribed to it in 12 C.F.R. § 1005.2(k).*

Sec. 10.5. *"Proceeds" means a payment delivered to a user by a provider that is based on earned but unpaid income.*

Sec. 10.6. *1. "Provider" means a person who is engaged in the business of providing earned wage access services, including a direct-to-consumer earned wage access provider and an employer-integrated earned wage access provider.*

2. The term does not include payroll service providers, including, without limitation, payroll service providers whose role may include verifying available earners but who are not contractually obligated to fund proceeds to a user.

Sec. 11. *"User" means a natural person residing in this State who receives earned wage access services.*

Sec. 12. *1. A person shall not engage in the business of a provider unless the person has been issued a license by the Commissioner pursuant to this section.*

2. A person who wishes to be licensed as a provider must submit to the Commissioner the application fee established pursuant to subsection 7, and an application, on a form prescribed by the Commissioner, which must contain:

(a) The name and address of the applicant;

(b) A copy of the proposed terms and conditions of use which will govern the provision of earned wage access services by the applicant, which must include, without limitation, a statement by the applicant that he or she will provide services in accordance with the applicable provisions of the federal Electronic Fund Transfer Act 15 U.S.C. §§ 1693 et. seq., and the regulations thereunder;

(c) A copy of the policy of the applicant relating to the privacy of information concerning users;

(d) A schedule of fees proposed to be charged to a user or employer for the provision of earned wage access services, which must include, without limitation, a statement identifying at least one option for a user to obtain earned wage access services from the applicant at no cost to the user;

(e) A statement that the applicant is applying to be licensed as an employer-integrated earned wage access provider or a direct-to-consumer earned wage access provider, or both;

(f) Financial statements of the applicant for the immediately preceding year that have been audited by an independent certified public accountant; and

(g) Any other information required by any regulations adopted by the Commissioner pursuant to section 32 of this act.

3. Upon receipt of the application for licensure and when satisfied that the applicant is entitled thereto, the Commissioner shall notify the applicant of the Commissioner's approval of the application and issue to the applicant a license as a provider that contains a unique license number. A licensee shall prominently display the license on the Internet website of the licensee.

4. Except as otherwise provided by regulation of the Commissioner, a license issued pursuant to this section expires on December 31 of each year unless it is earlier surrendered, suspended or revoked.

5. The license may be renewed annually upon approval of the Commissioner if the licensee, on or after November 1 and on or before December 31 of each year, files an application conforming to the requirements for an initial application.

6. An application for the annual renewal of the license must be accompanied by a fee of not more than $1,000. No investigation fee may be charged for the renewal of the license. If the application or fee for renewal is not filed within the required time, the Commissioner may reinstate the expired license if the licensee files the application, submits the fee for renewal and submits a fee of not more than $1,000 for late renewal, if applicable, on or before February 28 of the year following the expiration date of the license.

7. The Commissioner shall adopt regulations establishing the amount of fees required pursuant to this section. The fees for the application, initial license, and license renewal shall not exceed $1,000. All fees collected pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

8. A license issued pursuant to this section is not transferrable or assignable.

9. This section does not apply to a depository institution in which the deposits are federally insured up to applicable limits.

Sec. 13. *1. In addition to any other requirements set forth in this chapter, each applicant for licensure as a provider must submit:*

(a) Proof satisfactory to the Commissioner that the applicant:

(1) Is competent to transact the business of a provider.

(2) Has not made a false statement on the application for the license.

(3) Has not committed any of the acts specified in subsection 2.

(4) Has not had a license as a provider suspended or revoked within the 10 years immediately preceding the date of the application.

(5) Has not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(b) If the applicant is a corporation or association:

(1) The name and address of each of the directors, trustees and principals of the corporation and of any stockholder who owns 25 percent or more of the applicant's stock;

(2) If required by the Commissioner, a complete set of fingerprints for submission to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national or international background check on the criminal history of the principal officers of the corporation or association, which must include a written statement authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(3) If required by the Commissioner, information concerning the personal history and experience of the principal officers of the corporation or association; and

(4) If required by the Commissioner, information related to any administrative, civil or criminal findings made by any governmental jurisdiction concerning the principal officers of the corporation or association.

(c) If the applicant is a natural person:

(1) Proof satisfactory to the Commissioner that the applicant is at least 21 years of age;

(2) Proof satisfactory to the Commissioner that the applicant is a citizen of the United States or lawfully entitled to work in the United States; and

(3) A complete set of his or her fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant for licensure as a provider if the applicant:

(a) Has committed or participated in any act for which, if committed or done by a licensee, would be grounds for the suspension or revocation of the license.

(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.

(c) Has participated in any act which was a basis for the refusal or revocation of a license pursuant to this chapter.

(d) Has falsified any of the information submitted to the Commissioner in support of the application for the license.

Sec. 13.1. *1. The Commissioner may, in furtherance of his or her duties with respect to the issuance and renewal of licenses pursuant to this chapter, participate in the Nationwide Multistate Licensing System and Registry. The Commissioner may take any action with respect to participation in the Registry that the Commissioner deems necessary to carry out his or her duties, including, without limitation:*

(a) Facilitating and participating in the establishment and implementation of the Registry;

(b) Establishing relationships or contracts with the Registry or other entities designated by the Registry;

(c) Authorizing the Registry to collect and maintain records of applicants for licenses and licensees;

(d) Authorizing the Registry to, on behalf of the Commissioner, collect and process any fees associated with licensure, examinations, fines, assessments and any other similar fees;

(e) Requiring an applicant for a license or a licensee to use the Registry to:

(1) Apply for the issuance or renewal of a license;

(2) Amend or surrender a license;

(3) Submit any reports or the results of any examination that the Commissioner may require;

(4) Pay any applicable fees; and

(5) Engage in any other activity that the Commissioner may require; and

(f) Authorizing the Registry to, on behalf of the Commissioner, collect fingerprints in order to receive or conduct a background check on the criminal history of an applicant for a license or a licensee.

2. The Commissioner may require an applicant for a license or a licensee to submit a complete set of fingerprints when the Commissioner determines necessary. The Commissioner may use the services of the Registry to process and to submit the fingerprints to the Federal Bureau of Investigation, to the Central Repository for Nevada Records of Criminal History, to any federal or state law enforcement agency or to any other entity authorized to receive such information for the purpose of conducting a background check of the criminal history of an applicant for a license or a licensee.

3. An applicant for a license or a licensee shall, in addition to any other fees associated with the license, pay all applicable charges to use the Registry, including, without limitation, any processing charges established by the administrator of the Registry.

4. The Commissioner may adopt any regulations the Commissioner determines to be necessary or appropriate to carry out the provisions of this section. Such regulations may, without limitation, establish additional procedures and requirements for participation in the Registry.

5. The provisions of this section shall not be construed to replace or affect the authority of the Commissioner to grant, deny, suspend, terminate, revoke or refuse to renew a license.

Sec. 13.2. *1. In addition to any other requirements set forth in this chapter, each applicant for the issuance of a license pursuant to this chapter and each owner, officer, director and responsible person of the applicant, each person in control of the applicant and any other person the Commissioner may require in accordance with guidelines of the Registry or other multistate agreements shall submit to the Registry:*

(a) A complete set of fingerprints for submission to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national

and international background check on the criminal history of the person;

(b) Information concerning the personal history, financial history and experience of the person in a form prescribed by the Registry, including, without limitation, an authorization of the person for the Registry and the Commissioner to obtain:

(1) An independent credit report and credit score from a consumer reporting agency described in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f), for the purpose of evaluating the financial responsibility of the person at the time of the submission of the application; and

(2) Additional independent credit reports and credit scores to confirm that the person continues to comply with any applicable requirements concerning financial responsibility;

(c) Information related to any administrative, civil or criminal findings made by any governmental jurisdiction concerning the person; and

(d) Any other information concerning the person that the Registry or the Commissioner may require.

2. As used in this section:

(a) "Control" has the meaning ascribed to it in NRS 682A.047.

(b) "Responsible person" means a person who is employed by an applicant and who has principal, active managerial authority over the provision of services in this State.

Sec. 13.3. *1. Each licensee shall register with and maintain a valid unique identifier with the Registry.*

2. The Commissioner may issue a license through the Registry.

3. To the extent that the Commissioner has delegated to the Registry any of his or her duties with respect to the issuance and renewal of licenses as authorized by the provisions of this chapter, any reference to the Commissioner in this chapter shall be deemed to be a reference to the Registry.

4. As used in this section, "unique identifier" means a number or other identifier assigned by the protocols established by the Registry.

Sec. 14. *1. In addition to the requirements set forth in sections 12 and 13 of this act, a natural person who applies for the issuance or renewal of a license as a provider shall:*

(a) Include the social security number of the applicant in the application submitted to the Commissioner; and

(b) Submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department

of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to paragraph (b) of subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license as a provider may not be issued or renewed by the Commissioner if the applicant:

(a) Fails to submit the statement required pursuant to paragraph (b) of subsection 1; or

(b) Indicates on the statement submitted pursuant to paragraph (b) of subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to paragraph (b) of subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 15. *1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a provider, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. The Commissioner shall reinstate a license as a provider that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose

license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 16. *1. Each licensee shall have in force a surety bond payable to the State of Nevada in the amount of $35,000.*

2. The bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of earned wage access services.

3. A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against the licensee by any creditor or claimant arising out of the business of a provider of earned wage access services in this State, give notice thereof to the Commissioner by registered or certified mail with details sufficient to identify the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

4. Whenever the principal sum of the bond is reduced by recoveries or payments thereon, the licensee shall furnish:

(a) A new or additional bond so that the total or aggregate principal sum of the bonds equals the sum required pursuant to subsection 1; or

(b) An endorsement, duly executed by the surety, reinstating the bond to the required principal sum.

5. The liability of the surety on a bond to a creditor or claimant is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.

6. The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after:

(a) The death of the licensee or the dissolution or liquidation of the business of the licensee; or

(b) The termination of the bond,

whichever occurs first.

Sec. 17. *Each license as a provider shall remain in full force and effect until it expires or is surrendered, revoked or suspended as provided in this chapter and the regulations adopted pursuant thereto.*

Sec. 17.1. *1. The Commissioner may conduct any necessary investigations and hearings to determine whether any*

licensee or other person has violated any of the provisions of this chapter or whether any licensee has conducted himself or herself in a manner which requires the suspension, revocation or denial of renewal of his or her license.

2. In conducting any investigation or hearing pursuant to this chapter, the Commissioner, or any person designated by the Commissioner, may require the attendance and testimony of any person and compel the production of all relevant books, records, accounts and other documents.

Sec. 18. *1. For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the Commissioner or his or her duly authorized representative may, at any time, examine the books, accounts, papers and records that are used or created in connection with the activities covered by the license of:*

(a) Any licensee;

(b) Any other person engaged in the business of a provider or participating in such business as a principal, agent, broker or otherwise; and

(c) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purposes of examination, the Commissioner or his or her authorized representative shall have and be given reasonable access to the offices and places of business, and the files, safes and vaults of such persons.

3. For the purposes of this section, any person who advertises for, solicits or holds himself or herself out as willing to provide earned wage access services is presumed to be engaged in the business of a provider and must obtain a license from the Commissioner.

4. This section does not entitle the Commissioner or his or her authorized representative to investigate the business or examine the books, accounts, papers or records of any attorney who is not a person described in subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his or her capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 18.1. *1. Subject to any limitations or restrictions contained in federal or state law governing the privacy or*

confidentiality of records, the Commissioner shall report regularly any violations of applicable laws committed by applicants for licenses or licensees, enforcement actions and other relevant information to the Registry.

2. The requirements under any federal or state law, including, without limitation, rules of a federal or state court, regarding the privacy and confidentiality of any information or material provided to the Registry and any privilege arising under federal or state law with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with oversight authority over licensees without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

3. The Commissioner may enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the State Regulatory Registry, LLC, or other associations representing governmental agencies.

Sec. 19. *1. The Commissioner may require the attendance of any person and examine him or her under oath regarding:*

(a) Any licensee; or

(b) The subject matter of any audit, examination, investigation or hearing.

2. The Commissioner may require the production of books, accounts, papers and records for any audit, examination, investigation or hearing.

Sec. 20. *The Commissioner or his or her authorized representative may at least annually make an examination of the place of business of each licensee and of the transactions, books, accounts, papers and records of the person as they pertain to the business of a provider and its activities conducted pursuant to a license issued pursuant to this chapter.*

Sec. 21. *1. The Commissioner shall charge and collect from each licensee a fee at the rate established and, if applicable, adjusted pursuant to NRS 658.101 for the cost of any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.*

2. The Commissioner shall employ a certified public accountant to review and conduct independent audits and examinations of licensed providers. The Commissioner shall levy an assessment upon each licensed provider to cover all the costs related to the employment of the certified public accountant and the performance of the audits and examinations.

3. All money collected by the Commissioner pursuant to subsections 1 and 2 must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 22. *1. If the Commissioner finds that probable cause for revocation of a license of a licensee exists and that enforcement of this chapter requires immediate suspension of such a license pending investigation, he or she may, upon 5 days' written notice and a hearing, enter an order suspending the license for a period of not more than 20 days, pending a hearing about the revocation.*

2. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exists, he or she shall notify the licensee not later than 20 days before the date of the hearing. Such notice must state the contemplated action and, in general, the grounds thereof and set a date for a hearing.

Sec. 23. *1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, the Commissioner may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.*

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $50,000 upon a person who conducts any business or activity without a license and for which a license is required pursuant to the provisions of this chapter.

Sec. 24. (Deleted by amendment.)

Sec. 25. *1. A user, an attorney for a user or any other person who believes that any provision of this chapter has been violated may file a complaint with the Commissioner. Such a complaint must include:*

(a) The full name and address of the person filing the complaint;

(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred, including, without limitation, the date, time and place of the alleged violation and the name of each person involved in the alleged violation; and

(c) A certification by the person filing the complaint that the facts alleged in the complaint are true to the best knowledge and belief of the person.

2. Upon receipt of a complaint filed pursuant to subsection 1, the Commissioner shall send a copy of the complaint to the accused licensee. The licensee, or an authorized representative of the licensee, shall file a verified answer to the complaint within 10 business days after receipt of the complaint, unless for good cause shown, the Commissioner extends the time for a period of not more than 30 days. If the licensee, or an authorized representative of the licensee, fails to file a verified answer within the time required by this subsection, the licensee shall be deemed to have admitted to the allegations contained in the complaint.

3. The Commissioner may make investigations and conduct hearings concerning complaints filed with the Commissioner pursuant to this section.

4. Except as otherwise provided in this section, a complaint filed with the Commissioner pursuant to subsection 1, all documents and other information filed with the complaint and all documents, reports and other information resulting from the investigation of the complaint are confidential and may be disclosed only as the Commissioner deems necessary to administer the provisions of this chapter.

Sec. 26. *1. A licensee shall not make any of the following changes unless the licensee has obtained the prior approval of the Commissioner in accordance with the provisions of this section:*

(a) A change in the ownership of 25 percent or more of the capital stock or other equivalent ownership interest of the licensee;

(b) A change in control of the licensee;

(c) A change in the name of the licensee, including the name under which the licensee is doing business; or

(d) A change in the principal business address of the licensee or in the address of any office of the licensee in this State.

2. A licensee who wishes to make any change described in subsection 1 must, not less than 10 business days before the date on which the change is to occur, submit a notice to the Commissioner. Such notice must include any information that the Commissioner may require.

3. Upon receipt of a notice submitted pursuant to subsection 2, the Commissioner shall approve or disapprove the proposed change. The Commissioner may disapprove a proposed change if, in the reasonable judgment of the Commissioner, the proposed

change is inconsistent with the requirements of this chapter. If the Commissioner does not respond to a licensee who submits a notice pursuant to subsection 2, including, without limitation, any request by the Commissioner for additional information from the licensee, within 10 business days of the date on which the notice was submitted, the proposed change shall be deemed approved.

4. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of the licensee.

Sec. 27. *In addition to the notice requirements set forth in section 26 of this act, a licensee must, before making a change in the principal officers or directors of a licensee, submit a notice to the Commissioner within a time period prescribed by the Commissioner. If the submission of such a notice is not possible before the change due to the unilateral resignation of a principal officer or director or other similar circumstance, the licensee must submit to the Commissioner a notice as promptly as possible after such a change. If, in the reasonable judgment of the Commissioner, the change in the principal officers or directors of the licensee is inconsistent with the requirements of this chapter, the Commissioner may require the licensee to take such action as the Commissioner deems necessary to ensure compliance with the provisions of this chapter.*

Sec. 28. *1. On or before April 15 of each year, a licensee shall submit to the Commissioner a report containing, as applicable to the licensee:*

(a) Except as otherwise provided in subsection 2, financial statements for the immediately preceding year that have been audited by an independent certified public accountant;

(b) A copy of each complaint that has been filed by a user who received earned wage access services in this State in the immediately preceding year against the licensee with the Better Business Bureau or the Consumer Financial Protection Bureau and a description of the resolution, if any, of each such complaint;

(c) The total amount of charges paid by users for earned wage access services in the preceding year in this State;

(d) The total number of users in this State who did not receive earned wage access services in the immediately preceding year but who paid a subscription fee or membership fee imposed by a provider for a bona fide group of services that include earned wage access services, including the total amount of subscription fees and membership fees paid by those users in the immediately preceding year;

(e) The total number of users in this State who participated in 12 or more earned wage access transfers provided by the licensee in the immediately preceding year; and

(f) Any other information required by the Commissioner pursuant to regulations adopted pursuant to this chapter.

2. If audited financial statements are not available to a licensee on or before April 15 in any year, the licensee may satisfy the requirements of paragraph (a) of subsection 1 by submitting to the Commissioner:

(a) Unaudited financial statements on or before April 15; and

(b) Audited financial statements when such statements become available to the licensee.

3. Except as otherwise provided in this section, all documents and other information filed with the Commissioner are confidential and may be disclosed only as the Commissioner and the licensee mutually deem necessary to administer the provisions of this section.

4. The Commissioner shall annually publish and make available to the public an aggregated and anonymized analysis of the information submitted as required pursuant to this section.

Sec. 29. *A provider shall:*

1. Develop and implement policies and procedures to respond to questions raised by users and address complaints from users in an expedient manner;

2. Before entering into an agreement with a user for the provision of earned wage access services:

(a) Inform the user of his or her rights under the agreement; and

(b) Fully and clearly disclose all fees associated with the earned wage access services;

3. Allow the user to cancel, at any time and without incurring a fee, his or her participation in an agreement for the provision of earned wage access services;

4. Comply with all local, state and federal privacy and information security laws;

5. If the provider solicits, charges or receives a tip, gratuity or donation from a user:

(a) Conspicuously disclose or cause to be disclosed to the user that any tip, gratuity or donation paid by the user does not inure to the direct benefit of any specific employee of the provider or any other person; and

(b) Conspicuously provide an option for the user to select zero as an amount for such tip, gratuity or donation;

6. If a provider seeks payment of outstanding proceeds, fees or other payments including, without limitation, voluntary tips, gratuities or other donations from a user's account at a depository institution, including through a preauthorized electronic fund transfer:

(a) Comply with the applicable provisions of the Federal Electronic Fund Transfer Act and regulations thereunder; and

(b) Reimburse the user for the full amount of any overdraft or non-sufficient funds fee imposed on a user by the user's depository institution that were caused by the provider attempting to seek payment of any outstanding proceeds, fees or other payments, including, without limitation, voluntary tips, gratuities or other donations on a date before, or in an incorrect amount from, the date or amount disclosed to the user; and

7. The requirements set forth in paragraphs (a) and (b) of subsection 6 do not apply to any payments of outstanding amounts or fees incurred by a user through fraudulent or other unlawful means.

Sec. 30. (Deleted by amendment.)

Sec. 31. *1. A provider shall not:*

(a) Share with an employer any fees, voluntary tips, gratuities or other donations that were received from or charged to a user for earned wage access services;

(b) Use a user's consumer credit report, as defined in NRS 686A.630, or a user's credit score to determine the user's eligibility for earned wage access services;

(c) Charge a late fee, deferral fee, interest or any other penalty or charge for failure to pay outstanding proceeds, fees, voluntary tips, gratuities or other donations;

(d) Report any information about the user regarding the inability of the provider to be repaid outstanding proceeds, fees, voluntary tips, gratuities or any other donations to a consumer agency or debt collector;

(e) Compel or attempt to compel payment by a user of outstanding proceeds, fees, voluntary tips, gratuities or other donations to the provider through any of the following means:

(1) A civil action against the user in any court of competent jurisdiction;

(2) Use of a third party to pursue collection from the user on the provider's behalf; or

(3) Sale or assignment of outstanding amounts to a third-party collector or debt buyer for collection from the user.

2. The limitations set forth in paragraph (e) of subsection 1 shall not preclude the use by a provider of any of the foregoing methods specified in paragraph (e) of subsection 1 to compel or attempt to compel payment of outstanding amounts or fees incurred by a user through fraudulent or other unlawful means, nor shall they preclude a provider from pursuing an employer for breach of its contractual obligations to the provider.

Sec. 32. *The Commissioner may adopt regulations for the administration and enforcement of this chapter, in addition to and not inconsistent with this chapter. Such regulations may include, without limitation, requirements relating to the retention of records by a provider.*

Sec. 33. *1. Nothing in this chapter shall be construed to cause:*

(a) Any earned wage access services provided by a licensee in compliance with this chapter to be deemed:

(1) A loan or other form of credit;

(2) As violating or noncompliant with the laws of this State governing the sale or assignment of, or an order of, earned but unpaid income; or

(3) A money transmission, or to be subject to any of the provisions of law governing loans or money transmitters;

(b) Any licensee in compliance with this chapter to be deemed a creditor, lender or money transmitter; and

(c) Any fee provided to a consumer by a provider in compliance of this chapter to be deemed an interest or finance charge.

2. If there is a conflict between the provisions of this chapter and any other statute, the provisions of this chapter control.

Sec. 33.5. *The proceeds provided to a consumer by a provider in accordance with this chapter shall not be subject to the provisions of chapter 604A or 675 of NRS. A provider of the proceeds shall not be required to be licensed pursuant to chapters 604A and 675 of NRS unless the provider is conducting business pursuant to chapter 604A or 675 of NRS.*

Sec. 34. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,

116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116, 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209,

449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830, 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283, 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055, 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158, 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087, 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185, 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217, 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760, 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, ***and sections 25 and 28 of this act,*** sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or

memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

(1) Was not created or prepared in an electronic format; and

(2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require

the person who has requested the copy to prepare the copy himself or herself.

Sec. 34.5. NRS 604A.250 is hereby amended to read as follows:

604A.250 The provisions of this chapter do not apply to:

1. Except as otherwise provided in NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage companies, thrift companies or insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than $2; and

(b) Does not hold himself or herself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.

9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

13. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

14. A seller of real property who offers credit secured by a mortgage of the property sold.

15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

16. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

17. A provider licensed to provide earned wage access services pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

Sec. 35. NRS 671.020 is hereby amended to read as follows:

671.020 1. This chapter does not apply to any:

(a) Bank, its parent or holding company or any subsidiary thereof, trust company, savings bank, savings and loan association, credit union, industrial bank or industrial loan and investment company, organized and regulated under the laws of this state or of the United States;

(b) Foreign banking corporation licensed to do banking business in this state; ~~[or]~~

(c) Telegraph company providing a public message service ~~[.]~~ ***;***

or

(d) A provider who is licensed pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

2. Subsection 1 does not reduce or alter any liability otherwise attaching to the sale, issuance, receipt for transmission or transmission of checks or money in any form.

Sec. 35.5. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. Except as otherwise provided in NRS 675.035, a person doing business under the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit

unions, mortgage companies, thrift companies, pawnbrokers or insurance companies.

2. A real estate investment trust, as defined in 26 U.S.C. § 856.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

5. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

6. Except as otherwise provided in this subsection, any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

7. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

8. A seller of real property who offers credit secured by a mortgage of the property sold.

9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.

10. A person licensed to do business pursuant to chapter 604A of NRS with regard to those services regulated pursuant to chapter 604A of NRS.

11. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

12. Except as otherwise required by the Director of the Department of Business and Industry pursuant to NRS 657A.430 or 657A.620, a participant in the Regulatory Experimentation Program for Product Innovation established and administered pursuant to chapter 657A of NRS.

13. A provider of earned wage access services who is licensed to provide earned wage access services pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

Sec. 36. 1. On or before December 31, 2025, the Commissioner of Financial Institutions shall prepare and submit a report to the Director of the Legislative Counsel Bureau for

transmittal to the Legislature which includes an analysis of and any recommendations concerning earned wage access services and potential changes to regulations governing earned wage access services that may be warranted.

2. As used in this section, "earned wage access services" has the meaning ascribed to it in section 7 of this act.

Sec. 36.1. 1. On or before September 30, 2023, the Commissioner shall prescribe the form and content of an application for a license to provide earned wage access services pursuant to sections 2 to 33.5, inclusive, of this act.

2. As used in this section, "earned wage access services" has the meaning ascribed to it in section 7 of this act.

Sec. 36.2. 1. Notwithstanding the amendatory provisions of this act, a person who, as of January 1, 2023, was engaged in the business of providing earned wage access services in this State may, until December 31, 2024, continue to engage in the business of providing earned wage access services in this State without obtaining a license pursuant to sections 2 to 33.5, inclusive, of this act if the person submits an application for such a license before January 1, 2024, and otherwise complies with this act.

2. As used in this section, "earned wage access services" has the meaning ascribed to it in section 7 of this act.

Sec. 36.4. As soon as practicable after determining that the Nationwide Multistate Licensing System and Registry, as defined in section 10.1 of this act, has sufficient capabilities to allow the Commissioner of Financial Institutions to carry out the amendatory provisions of sections 2 to 33.5, inclusive, of this act, the Commissioner of Financial Institutions shall notify the Governor and the Director of the Legislative Counsel Bureau of that fact, and shall publish notice to the public of that fact on the Internet website of the Division of Financial Institutions of the Department of Business and Industry.

Sec. 37. 1. This section and section 36.4 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, 10.2 to 13, inclusive, 14, 15, 16, 17.1, 18 and 19 to 36.2, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2024, for all other purposes.

3. Sections 10.1, 13.1, 13.2, 13.3 and 18.1 of this act become effective on the date on which the Commissioner of Financial Institutions, pursuant to section 36.4 of this act, notifies the

Governor and the Director of the Legislative Counsel Bureau that the Nationwide Multistate Licensing System and Registry, as defined in section 10.1 of this act, has sufficient capabilities to allow the Commissioner to carry out the provisions of sections 2 to 33.5, inclusive, of this act.

4. Section 17 of this act becomes effective on January 1, 2024.

5. Sections 1 to 13, inclusive, and 16 to 36, inclusive, of this act expire by limitation on December 31, 2029.

6. Sections 14 and 15 of this act expire by limitation on the earlier of December 31, 2029, or the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has the authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

J. Malcolm DeVoy (11950)
Matthew Morris (15068)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, NV 89511
Tel: (775) 327-3000
Fax: (775) 786-6179
jmdevoy@hollandhart.com
mcmorris@hollandhart.com

Attorneys for Plaintiff DailyPay, Inc.

FIRST JUDICIAL DISTRICT COURT OF NEVADA
IN AND FOR CARSON CITY

DAILYPAY, INC., a Delaware Corporation

Plaintiff,

v.

The Honorable FRANCISCO V. AGUILAR, in his official capacity as Secretary of State for the State of Nevada;

Defendant.

And

STOP PREDATORY LENDING NV, a domestic nonprofit corporation.

Intervenor-Defendant.

Case No. 24-OC-00021B

Dept. No. 2

2024 FEB 14

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

Plaintiff DAILYPAY, INC. ("DailyPay"), by and through its undersigned counsel of the law firm HOLLAND & HART LLP, hereby files this Memorandum of Points and Authorities in support of its Complaint for Declaratory and Injunctive Relief, filed on January 29, 2024, which Complaint challenges the lawfulness of Initiative Petitions S-01-2024 and S-03-2024 (the "Petitions"). This Memorandum of Points and Authorities is based on DailyPay's Complaint, all pleadings and papers on file, and any oral argument that this Court may allow at hearing. Pursuant to FJDCR 3.23(b), this Memorandum of Points and Authorities is limited to ten pages exclusive of exhibits.

Docket 88557 Document 2024-17423

AFFIRMATION

As required under NRS 239B.030(1) and NRS 603A.040, undersigned counsel hereby affirms that the MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF filed herewith does not contain the personal information of any person.

DATED this 4th day of February 2024.

HOLLAND & HART LLP

J. Malcolm DeVoy (11950)
Matthew Morris (15068)
5441 Kietzke Lane, 2nd Floor
Reno, NV 89511
Tel: (775) 327-3000
Fax: (775) 786-6179
jmdevoy@hollandhart.com
mcmorris@hollandhart.com

Attorneys for DailyPay, Inc.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

The Petitions claim to serve one purpose, but in reality do something very different. To a potential voter, the Petitions propose changing the law purportedly to crack down on "predatory," "high-interest" lending and "other loans" and to penalize "mask[ing]" transactions which are by "nature…loans covered by [the Petitions]." But the Petitions' description of effect is misleading and does not tell voters that they seek to re-define the term "loan" to include new categories of financial services that, by definition, are not loans under Nevada law. The Petitions would in fact re-define the term "loan" to include earned wage access ("EWA") services, which allow a worker to access their own earned but unpaid income. If enacted, the Petitions will repeal SB 290's language providing EWA services are not loans, and EWA service providers and the employers they partner with, are not lenders or subject to Nevada's lending laws.

The Petitions do not explain that they seek to repeal SB 290's provisions defining EWA services as non-loan financial services. Nor do the Petitions explain that Nevada businesses who partner with DailyPay—an "employer-integrated" EWA service provider—will be subject to new liability as "predatory lenders", subject to damages and penalties for "facilitating" or "offering" to their workers access to their own earned but unpaid income. The Petitions would visit these harsh treatments on EWA providers and the employers they partner with to offer access to earned-but-unpaid income, a service authorized under existing law that confirms EWA services are not a loan or credit product. If circulated, the Petitions would deprive tens of thousands of Nevada workers and potential signatories of fair notice that they are being asked to support changing the law to make it more difficult to use or offer a vital financial service.

The Petitions violate the single-subject rule and do not truthfully describe their effects on non-loan financial services from which tens of thousands of Nevada workers have benefited. Thus, the Petitions sidestep statutory safeguards meant to secure a fair process and ensure Nevada voters are informed regarding changes to Nevada law they are asked to support. This Court should order that the Petitions are invalid and must not be circulated for signature.

///

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

II. Pertinent Factual Background and Procedural History

Senate Bill 290 (SB 290), signed into law on June 13, 2023, authorizes the licensure and regulation of earned wage access ("EWA") services in Nevada.[1] SB 290 defines "earned wage access services" as "the delivery to a user of money that represents earned but unpaid income." SB 290, Sec. 7(1). EWA services include "both employer-integrated [EWA] services and direct-to-consumer [EWA] services." SB 290, Sec. 7(2). "Employer-integrated" EWA services are "the delivery to a user of access to earned but unpaid income determined based on employment, income or attendance data obtained directly or indirectly from an employer [or] an employer's payroll service provider." SB 290, Sec. 9.1 An "employer-integrated" EWA service provider is a "person who is engaged in the business of offering to provide or providing employer-integrated earned wage access services." SB 290, Sec. 9(1). DailyPay is an employer-integrated EWA service provider.

SB 290 prohibits an EWA service provider from charging interest, reviewing an EWA user's credit report or credit score to provide EWA services, reporting an EWA user to a credit or debt collection agency, or taking recourse against an EWA user for non-payment. SB 290, Sec. 31(1)(a)-(e). Among other background check and license fee requirements, SB 290 requires an EWA service provider, as a condition of licensure, to offer "at least one option for a user to obtained earned wage access services…at no cost to the user." SB 290, Sec. 12(2)(d). SB 290 is clear: "Nothing in [SB 290] shall be construed to cause…any earned wage access services provided by a licensee in compliance with [SB 290] to be deemed a loan or other form of credit…or a money transmission or to be subject to any of the provisions of law governing loans or money transmitters." SB 290, Sec. 33(1)(a). SB 290 is equally clear that "nothing in [SB 290] shall be construed to cause…any [EWA] licensee in compliance with [SB 290] to be deemed a creditor, lender, or money transmitter." SB 290, Sec. 33(1)(b). And "[i]f there is a conflict between the provisions of [SB 290] and any other statute, the provisions of [SB 290] control." SB 290, Sec. 33(2).

The Petitions were filed on January 5, and January 24, 2024, respectively.[2] As pertinent here, the Petitions propose to enact the "Preventing Predatory Payday and Other Loans Act." (the

[1] SB 290, as enrolled, is attached hereto for reference as **Exhibit 1**.
[2] Initiative Petition S-01-2024 is attached as **Exhibit 2**. Initiative Petition S-03-2024 is attached as **Exhibit 3**.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

"Proposed Act").[3] The Petitions propose identical language defining the term "loan," which includes "any sale, assignment, order or agreement for the payment of unpaid wages, salary…or other income….whether earned, to be earned or contingent upon future earnings, that is made in consideration for….the payment of money to or for…the person earning or receiving…the wages…or other income."[4] In addition to proposing an annual percentage rate (APR) cap on "any loan or other transaction subject to" the proposed Act, the Petitions also prohibit any "payday lender" or "other person" from engaging in "any device, subterfuge or pretense to evade the [Act's] requirements," including "disguising a loan or other transaction as the sale of goods, services or things in action," "structuring the transaction in a manner to obscure the fact that it is a loan," or "charging, contracting, or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary."[5] The Proposed Act renders any "loan or other transaction" that violates the Act void and uncollectible and subjects "any person who violates [the Act]" to civil liability, actual and consequential damages, treble damages, statutory damages of $250 to $1,000 per violation, injunctive or declaratory relief, and attorney's fees and costs.[6] The Petitions do not define "person" for purposes of these new prohibitions.

DailyPay timely filed the instant Complaint challenging the Petitions on January 29, 2024.[7] DailyPay's Complaint challenges the Petitions' compliance with the Nevada Constitution's and NRS Chapter 295's rules regarding initiative and referendum petitions. As discussed here, the Petitions are unconstitutional, violate NRS Chapter 295, and may not be circulated for signature.

III. Legal Arguments

A. *The Petitions Violate the Single-Subject Rule.*

NRS 295.009(1) requires that an initiative petition must embrace only "one subject and matters necessarily connected therewith and pertaining thereto." NRS 295.009(2) provides that an

[3] **Ex. 2**, at 1; **Ex. 3**, at 1.
[4] **Ex. 2**, **Ex. 3**, at Sec. 5(1)(c) ("Loan defined").
[5] *Id.*, Sec. 9 ("Maximum interest rate permitted") and Sec. 10 ("Prohibited acts to evade application of chapter").
[6] *Id.*, Secs. 13(1)—(4) ("Remedies for payday loans or other transactions made in violation of this chapter").
[7] On January 31, 2024, Defendant FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State, by and through counsel Nevada Attorney General's Office, accepted service of the Complaint and Summons. DailyPay provided a courtesy copy of the Complaint to Bradley Schrager, Esq., who agreed to accept service on behalf of his client, prospective Intervenor-Defendant STOP PREDATORY LENDING, NV. On or around February 14, 2024, DailyPay and other parties challenging the Petition(s), stipulated to allow the entity to intervene in this cause of action.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

initiative petition embraces one subject "if the parts of the proposed initiative or referendum are functionally related and germane to each other **in a way that provides sufficient notice** of the **general subject of**, and **of the interests likely to be affected by**, the proposed initiative or referendum." (Emphases added). "By limiting petitions to a single subject, NRS 295.009 facilitates the initiative process by preventing petition drafters from circulating confusing petitions that address multiple subjects…single subject requirements serve to prevent voter confusion and promote informed decisions by narrowing the initiative to a single matter and providing information on that single matter to the voter." *Nevadans for the Protection of Property Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006) (citing *Campbell v. Buckley* 203 F.3d 738 (10th Cir. 2000)).

The Petitions violate the single subject rule by addressing multiple subjects involving non-loan services, while purporting to apply only to "loans"—and specifically to "predatory" and "high-interest" loans, at that. The proposed Act extends beyond loans and lenders and instead regulates financial services that are not loans, penalizes entities that are not lenders, and even penalizes employers (regardless of business or industry) that partner with EWA service providers. Under existing law, EWA services are not loans or credit and EWA service providers are not lenders. SB 290, Sec. 33(1)(a)-(b). The Petitions would authorize new and expansive penalties on loans and non-loan services alike and would penalize not only "payday lenders" but EWA service providers, and the employers with whom they partner to offer EWA services to workers. On their face, the Petitions do not embrace a single "subject and matters necessarily connected therewith and pertaining thereto," as NRS 295.009 requires, because they do not provide "sufficient notice of the general subject of, and of the interests likely to be affected by," the Proposed Act. The Petitions address multiple subjects, affect diverse interests of workers, employers, and service and exceed the clear and express parameters set forth in NRS 295.009.

B. *The Petitions' Description of Effect is Misleading, Argumentative, and Deceptive.*

NRS 295.009(1)(b) requires an initiative petition to describe the effects of the petition if approved by voters. The statutorily mandated description of effect "is significant as a tool to help 'prevent voter confusion and promote informed decision." *Las Vegas Taxpayer Accountability*

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

Cmte. v. City Council of City of Las Vegas, 125 Nev. 165, 183, 208 P.3d 429, 441 (2009) (quoting *Nevadans for Nev. v. Beers* 122 Nev. 930, 939, 142 P.3d 339, 345 (2006)). The description of effect must be "straightforward, succinct, and nonargumentative." *Id.* (citing *Herbst Gaming*, 122 Nev. 877, 89, 141 P.3d 1224, 1232). It must not be deceptive or misleading. *Educ. Freedom PAC v. Reid*, 138 Nev. Adv. Op. 47, 512, P.3d 296, 304 (2022) (citing *Educ. Initiative PAC v. Cmte. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013)). This is essential because the description of effect "is what the voters see when deciding to sign a petition, and…[it] must accurately inform petition signers of the nature and effect of that which is proposed." *No Solar Tax PAC v. Citizens for Solar and Energy Fairness,* 132 Nev. 1012, 2016 WL 4182739, at *1 (2016) (unpublished disposition) (citations omitted). In evaluating whether a description of effect meets the required standards, a court must "assess whether the description contains a straightforward, succinct, and nonargumentative statement of what the initiative will accomplish and how it will achieve those goals." *Educ. Initiative PAC*, 129 Nev. at 38, 293 P.3d at 876.

The Petitions' description of effect is silent on the proposed repeal of SB 290's provisions pertaining to EWA services and service providers—that is, silent both to the Petitions' seeking to take these actions through the Act, and on the effects on employees and employers who use EWA services. The description of effect's sole reference that could even arguably relate to EWA services is its opaque and misleading reference to "structuring transactions to **mask their nature as loans** covered by this measure...". (Emphasis added).[8] This reference misleadingly suggests that EWA services, which are not loans, are merely "masked" as loans in disguise, and that the proposed Act will purportedly punish these "masked" and "predatory" transactions. The description of effect's reference to transactions that are "masked" to purportedly hide their nature as loans misleads voters in suggesting that non-loan transactions, such as EWA services are, by nature, "loans," failing to explain that existing law provides just the opposite. The description of effect does not tell a potential signatory "what the initiative will accomplish" and "how it will achieve those goals" in a straightforward and transparent manner. *Educ. Initiative PAC*, 129 Nev. at 38, 293 P.3d at 876.

[8] **Ex. 2**, at 19; **Ex 3**, at 11.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

Exacerbating this confusion, the description of effect does not accurately describe the proposed Act's scope, which alternately uses key terms without defining them, or defines them through reference to other statutes *without* providing the full text of those provisions for a potential signatory to review in full context. The proposed Act, Sec. 2, states it is meant to "combat[] predatory payday lending" but nowhere does the Act define the term "predatory payday pending" nor does the description of effect provide any clarity around these and other undefined terms, such as "high-interest" or what constitutes a "person" subject to the proposed Act's new penalties and liability. *See No Solar Tax PAC v. Citizens for Solar and Energy Fairness*, 132 Nev. 1012, 2016 WL 4182739, at *2 (2016) (unpublished) (description of effect was misleading and argumentative in using undefined terms such as "unaffordable" and "cost-prohibitive" that were not used in statutory language).

In addition to misleadingly equating EWA services and EWA service providers with other so-called "predatory loans" and "predatory lenders," the description of effect does not even accurately describe the types of loans to which it will apply. The description of effect states, for example, that its maximum interest rate will apply only to "loan" products, *i.e.*, to "consumer loans, deferred-deposit transactions ('payday loans'); title loans, and other loan types **dependent on future earnings and income**."[9] The description of effect thus contradicts (and omits material terms from) the proposed definition of "loan" within Sec. 5, which includes transactions involving **both** "future earnings and income," as well as transactions involving past earnings, *i.e.*, "the payment of unpaid wages, salary…or other income…**whether earned,** to be earned, or contingent upon future earnings."[10] The description of effect is patently misleading in telling voters it applies only to loan types that depend on future earnings, while its very own proposed definition of "loan" also encompasses transactions that facilitate access to previously earned wages and accrued earnings, and not merely potential future earnings.

This defect is not merely cosmetic. A worker's ability to access income that the worker has already earned, and that can be verified as already earned through data provided by the worker's employer or payroll service provider, is a touchstone feature of employer-integrated EWA

[9] **Ex. 2**, at 19; **Ex. 3**, at 11 (emphases added).
[10] **Exs. 2** and **3**, Sec. 5(1)(c) (emphasis added).

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

services. These employer-integrated EWA services include those that DailyPay and its employer partners offer to thousands of Nevada workers. Facilitating a worker's access to the worker's already earned income is not lending—nothing is being loaned to the worker, because the worker is accessing what he or she has already, and verifiably, worked for and earned. As one of SB 290's primary sponsors, Senator Nicole Cannizzaro testified, SB 290's definition of "'earned but unpaid income' to mean salary, wages or other compensation that an employee has already earned, but that has not been paid to the employee…is key to distinguishing EWA products from loans and other lending-related financial products and services." Hearing on SB 290, Nev. Sen. Commerce & Labor Cmte. Mins. (April 5, 2023), at 42. The Petitions' description of effect, however, obliterates this key distinction. Instead, the Petitions seek to treat a transaction that facilitates such access to earned wages as a "predatory loan," and would punish a service provider, or the service providers' employer partners, as "predatory" lenders, contradicting existing state law providing that offering access to earned income is not a loan.

It is one thing for the Petitions' circulators to propose a change in law to treat EWA services as "loans." It is quite another to propose such a change through an initiative petition, without providing the statutorily mandated explanation and fair notice of the proposed change. Given the Legislature's clear policy determination as reflected in SB 290, if circulators wish to propose a change by initiative that re-defines EWA services as "loans," at the very least they must inform voters of what the Petitions truly intend to accomplish. What's more, if circulators wish to repeal what the Legislature has decreed as to EWA services in SB 290, the proper method to do so is a **referendum, not an initiative**.[11] Either approach must satisfy a minimum standard for informing voters and preventing voter misinformation and confusion which the Petitions fail to satisfy.

C. *The Petitions Withhold the Text of SB 290, which they Seek to Amend and Repeal.*

The Petitions refer to, and indeed, seek to repeal certain portions of SB 290 without informing voters of this effect and without including the full text of SB 290 for potential signatories

[11] *Garvin v. Ninth Judicial Dist. Ct. ex rel Cty. of Douglas*, 118 Nev. 749, 753, 758 n.31, 59 P.3d 1180, 1183, 1186 n.31 (2002) ("Referendum is the electorate's power to approve or disapprove already-enacted legislation, while initiative is the electorate's power to directly enact legislation by popular vote," and "the distinction arises from the different procedures employed for referenda and initiatives. Referenda give the voters the opportunity to approve or veto legislation already enacted, whereas initiative petitions give voters the opportunity to directly enact legislation").

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

to review. The Nevada Constitution, in two separate provisions, Art. 4, Sec. 17, and Art. 19, Sec. 3, patently forbids the exercise of lawmaking power, whether by the Legislature or by direct initiative, that purports to amend existing law without providing the amendment in its entirety, and in full context. Thus, "no law shall be revised or amended by reference to its title only; but, in such case, the act as revised or section as amended, shall be re-enacted and published at length." NEV. CONST., ART IV., Sec. 17. In the petition context, "each referendum and initiative petition shall include the full text of the measure proposed." NEV. CONST. ART. XIX, Sec. 3(1). NRS 295.0575(6) reflects and reinforces this constitutional mandate, mandating that "each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded." NRS 295.0575(6).

The Petitions propose an Act that will expressly apply to the definitions that SB 290 codified. The Petitions seek an end-run around providing a copy of the legislation they seek to repeal by proposing a limited prospective application of the proposed Act to EWA services providers, effective Jan. 1, 2030.[12] This prospective application, however, applies only to the Section 9's maximum interest rate, but does not apply to other provisions which would redefine EWA services as loans and reclassify EWA service providers and their employer partners as lenders, upon the proposed Act's taking effect.

Regardless of the prospective application of the proposed Act, the circulators are still required to include the full text of SB 290, essential provisions of which the Petitions seek to repeal. The circulators' failure to provide the full text of SB 290 deprives potential signatories of basic information about the Petitions' effects. Withholding the full text of the legislation within the Petition deprives potential signatories who are also EWA users, or employers that offer EWA services to their workers, that supporting the Petition would adversely affect their interests in using or offering EWA services. The dangerous undermining of the initiative process that the Petitions would effectuate is precisely what NRS 295.0575(6)'s affidavit requirement exists to prevent: "[T]he requirement that each signer be given the opportunity to review a measure's full

[12] **Exs.** 2 and 3, Sec. 15

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

text…ensur[es] that signers know what they are supporting." *Las Vegas Conv. and Vis. Auth. v. Miller*, 124 Nev. 669, 686, 191 P.3d 1138, 1149 (2008).

D. *The Petitions Fail to Describe or Account for their Fiscal Impacts.*

Finally, the Petitions are unconstitutional because they fail to describe or account for the new expenses that will result from their mandated enforcement and expanded regulatory oversight. The Nevada Constitution "does not permit the proposal of any statute or statutory amendment which…requires the expenditure of money, unless such statute or amendment also imposes a sufficient tax…or otherwise constitutionally provides for raising the necessary revenue." NEV. CONST., Art. 19, Sec. 6. The "primary purpose" of this constitutional provision is "to ensure that no initiative petition [is] presented to the voters that [does] not contain funding provisions when the initiative would require an appropriation or expenditure" because "it would be destructive for the people to ignore completely the cost of what they are proposing." *Educ. Freedom PAC*, 138 Nev. Adv. Op. 47, 512 P.3d at 302. SB 290 demonstrates the Petitions' necessary fiscal effects that will result from expanded regulatory activity. SB 290 exempted EWA service providers from Nevada's loan and lending laws, yet the State's fiscal note estimates it would cost more than $106,250 in FY 2024-2025 to regulate 25 new EWA licensees. *See* **Ex. 4**, FID Fiscal Note 8397 (Mar. 22, 2023). The fiscal note's $160,000 price tag accounts for regulating EWA licensees at a level of oversight far more specific than what the Petitions vastly propose for EWA providers and their employer partners. There is no reasonable argument that the Petitions will not result in fiscal impacts, yet the Petitions fail even to identify, much less account for them. The Nevada Constitution forbids such proposals from being circulated for approval.

IV. Conclusion

The Petitions violate the rules meant to safeguard the initiative and referendum processes, rules that are meant to ensure that such processes are fair and transparent. If the Petitions seek to repeal all or part of SB 290, the Petitions must accurately inform voters of the intent to do so, and of the effects on EWA services and service providers if the Petitions are approved. The Petitions must provide the full text of the statutes the Petitions seek to repeal, and explain the costs of the measure proposed, so that voters can review the text in context and make an informed decision.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

In light of the foregoing, Plaintiff respectfully requests that this Court order and declare the Petitions violate the single-subject rule, fail to provide an accurate description of effect to potential signatories, and are otherwise invalid and may not be circulated for signature.

Dated this 14TH day of FEBRUARY, 2024

HOLLAND & HART LLP

J. Malcolm DeVoy (11950)
Matthew Morris (15068)
5441 Kietzke Lane, 2nd Floor
Reno, NV 89511
(775) 327-3000
(775) 786-6179
jmdevoy@hollandhart.com
mcmorris@hollandhart.com

Attorneys for DailyPay, Inc.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

PLAINTIFF'S EXHIBITS - Appendix 1
Memorandum of Points and Authorities in Support of Complaint for Declaratory and Injunctive Relief

Exhibit No.	Document Title	# of Pages
1	Senate Bill 290 (82d Leg., Nev. 2023)	28
2	Petition S-01-2024	25
3	Petition S-03-2024	17
4	Fiscal Note to Senate Bill 290 (2023)	4

EXHIBIT 1

*

Senate Bill No. 290–Senators Cannizzaro and Lange

CHAPTER.....

AN ACT relating to financial services; requiring a person who provides earned wage access services to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; authorizing the Commissioner, in furtherance of his or her duties with respect to the issuance and renewal of certain licenses, to participate in the Nationwide Multistate Licensing System and Registry; authorizing the Commissioner to take certain actions relating to participation in the Registry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-33.5 of this bill establish provisions relating to businesses that deliver to a person money that represents income that the person has earned but that has not yet been paid to the person. **Section 9** of this bill defines "employer-integrated earned wage access provider" as a person who provides such a service after verifying the earned income of the user through certain data provided by the user's employer, or a person who provides payroll services to that employer. **Section 3.1** of this bill defines a "direct-to-consumer earned wage access provider" as a person who provides such a service after verifying the earned income of the user through certain data that is not provided by the user's employer or a person who provides payroll services to that employer. **Section 10.6** of this bill defines "provider" to include an employer-integrated earned wage access provider and a direct-to-consumer earned wage access provider.

Section 12 of this bill prohibits a person from engaging in the business of a provider without a license issued by the Commissioner of Financial Institutions. **Sections 12-15** of this bill set forth certain requirements for licensure as a provider. **Section 16** of this bill requires each holder of a license as a provider to maintain a surety bond. **Sections 18-20** of this bill authorize the Commissioner to conduct certain examinations of licensees. **Section 21** of this bill requires the Commissioner to: (1) charge a fee for such examinations; (2) employ a certified public accountant to review and conduct independent audits and examinations of licensed providers; and (3) levy an assessment upon each licensed provider to cover the costs related to the employment of the certified public accountant and the performance of the audits and examinations.

Sections 10.1, 13.1-13.3 and 18.1 of this bill enact provisions to govern the licensing of providers through the Nationwide Multistate Licensing System and Registry developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and operated by the State Regulatory Registry, LLC. Under **section 37** of this bill, these provisions relating to the Registry become effective on the date that the Commissioner notifies the Governor and the Director of the Legislative Counsel Bureau that the Registry has sufficient capabilities to allow the Commissioner to carry out the provisions of law relating to the issuance and renewal of licenses through the Registry. (Chapter 347, Statutes of Nevada 2021, at page 2030)

Section 13.1 of this bill authorizes the Commissioner to: (1) in furtherance of his or her duties with respect to the issuance and renewal of licenses pursuant to this bill, to participate in the Registry; (2) require an applicant for licensure or a

licensee to submit a complete set of fingerprints when the Commissioner determines necessary; and (3) use the services of the Registry to process and to submit the fingerprints to the Federal Bureau of Investigation and certain other federal and state agencies for the purposes of conducting a criminal background check. **Section 13.1** also sets forth certain actions that the Commissioner is authorized to take concerning participation in the Registry, including, among others, requiring applicants for or holders of licenses to use the Registry to submit certain information and fees relating to licensure.

Section 13.2 of this bill requires each applicant for the issuance of a license and certain other persons to submit a complete set of fingerprints to the Registry. **Section 13.3** of this bill: (1) authorizes the Commissioner to issue a license through the Registry; and (2) provides that, to the extent that the Commissioner has delegated his or her duties with respect to the issuance or renewal of licenses as authorized under the provisions of this bill, references to the Commissioner in provisions of existing law governing the issuance or renewal of such licenses are deemed to be references to the Registry.

Section 17.1 of this bill authorizes the Commissioner to conduct any necessary investigations and hearings to determine whether any licensee or person has violated any provision of this bill or whether any licensee has conducted himself or herself in a manner which requires the suspension, revocation or denial of renewal of his or her license. In conducting such investigation or hearing, **section 17.1** authorizes the Commissioner to: (1) require the attendance and testimony of certain persons; (2) compel the production of certain documents; and (3) collect certain fees from each licensee or person.

Section 18.1 of this bill: (1) requires the Commissioner to report to the Registry certain information concerning violations of applicable laws by applicants for licenses and licensees; and (2) authorizes the Commissioner to enter into certain agreements or sharing arrangements with the Conference of State Bank Supervisors, the State Regulatory Registry, LLC, and certain other entities.

Sections 22 and 23 of this bill set forth certain procedures for disciplinary actions against a licensee or person who violates the provisions of this bill. **Section 25** of this bill sets forth a process for filing complaints against a licensee. **Sections 26 and 27** of this bill require a licensee to submit a notice to and obtain the approval of the Commissioner before taking certain actions. **Section 28** of this bill requires a licensee to submit certain information to the Commissioner annually. **Section 34** of this bill makes conforming changes relating to the confidentiality of the information collected by a governmental agency related to **sections 25 and 28**.

Section 29 of this bill sets forth certain requirements for the operation of a provider. **Section 31** of this bill, among other things, prohibits a provider from: (1) sharing certain fees, voluntary tips, gratuities or other donations with an employer; and (2) compelling or attempting to compel payment by a user through certain actions.

Section 33 of this bill provides that earned wage access services provided by a provider licensed pursuant to **sections 2-33.5** are not a loan or money transmission and are not subject to any provisions of existing law governing loans and money transmitters. **Sections 34.5-35.5** of this bill provide that the provisions of existing law governing persons engaged in the business of transmitting money or certain loans do not apply to a provider.

Section 32 of this bill authorizes the Commissioner to adopt regulations for the administration and enforcement of **sections 2-33.5**. **Sections 36 and 36.1** of this bill requires the Commissioner to: (1) on or before December 31, 2025, submit a report to the Legislature containing certain information relating to the regulation of

earned wage access services; and (2) prescribe the form and content of an application for a license to provide earned wage access services.

Section 36.2 of this bill authorizes a person who, as of January 1, 2023, was engaged in the business of providing earned wage access services to continue to engage in that business without obtaining a license pursuant to **sections 2-33.5** until December 31, 2024, if the person submits an application for such a license before January 1, 2024.

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

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 33.5, inclusive, of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Commissioner" means the Commissioner of Financial Institutions.***

Sec. 3.1. ***"Direct-to-consumer earned wage access provider" means a person who is engaged in the business of providing direct-to-consumer earned wage access services.***

Sec. 3.2. ***"Direct-to-consumer earned wage access services" means the delivery to a user of an advance of earned but unpaid income based on data that is not employment, income or attendance data obtained directly from an employer or an employer's payroll service provider.***

Sec. 4. ***1. "Earned but unpaid income" means salary, wages, compensation or other income that:***

(a) A user or employer has represented, and a provider has reasonably determined to have been, earned or accrued to the benefit of the user in exchange for the user's provision of services to the employer or on behalf of the employer; and

(b) Has not been paid to the user by the employer at the time a provider delivers the payment of the proceeds to a user.

2. The term includes, without limitation, salary, wages, compensation or other income earned:

(a) On an hourly, project-based, piecework or other basis.

(b) Through services rendered as an independent contractor.

Secs. 5 and 6. (Deleted by amendment.)

Sec. 7. *1. "Earned wage access services" means the delivery to a user of money that represents earned but unpaid income.*

2. The term includes both employer-integrated earned wage access services and direct-to-consumer earned wage access services.

Sec. 8. *1. "Employer" means:*

(a) A person who employs a user; or

(b) Any other person who is contractually obligated to pay a user any earned but unpaid income.

2. The term does not include:

(a) A customer of an employer; or

(b) Any other person whose obligation to make a payment of salary, wages, compensation or other income to a user is not based on the provision of services by that user for or on behalf of such person.

Sec. 9. *1. "Employer-integrated earned wage access provider" means a person who is engaged in the business of offering to provide or providing employer-integrated earned wage access services.*

2. The term does not include payroll service providers, including, without limitation, payroll service providers whose role may include verifying the available earnings but who are not contractually obligated to fund earned wage access service proceeds to a user.

Sec. 9.1. *"Employer-integrated earned wage access services" means the delivery to a user of access to earned but unpaid income determined based on employment, income or attendance data obtained directly or indirectly from an employer, including, without limitation, an employer's payroll service provider.*

Sec. 9.2. *1. "Fee" includes:*

(a) A fee imposed by a provider for delivery or expedited delivery of proceeds to a user; and

(b) A subscription or membership fee imposed by a provider for a bona fide group of services that include earned wage access services.

2. The term does not include a voluntary tip, gratuity or donation.

Sec. 10. *"Licensee" means a person who has been issued one or more licenses to engage in the business of:*

1. An employer-integrated earned wage access provider; or

2. A direct-to-consumer earned wage access service provider.

Sec. 10.1. *"Nationwide Multistate Licensing System and Registry" or "Registry" means a multistate licensing system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and operated by the State Regulatory Registry, LLC, for the licensing and registration of non-depository financial service entities by participating state agencies, or any successor to the Nationwide Multistate Licensing System and Registry.*

Sec. 10.2. *"Outstanding proceeds" means proceeds remitted to a user by a provider that have not yet been repaid to that provider.*

Sec. 10.4. *"Preauthorized electronic fund transfer" has the meaning ascribed to it in 12 C.F.R. § 1005.2(k).*

Sec. 10.5. *"Proceeds" means a payment delivered to a user by a provider that is based on earned but unpaid income.*

Sec. 10.6. *1. "Provider" means a person who is engaged in the business of providing earned wage access services, including a direct-to-consumer earned wage access provider and an employer-integrated earned wage access provider.*

2. The term does not include payroll service providers, including, without limitation, payroll service providers whose role may include verifying available earners but who are not contractually obligated to fund proceeds to a user.

Sec. 11. *"User" means a natural person residing in this State who receives earned wage access services.*

Sec. 12. *1. A person shall not engage in the business of a provider unless the person has been issued a license by the Commissioner pursuant to this section.*

2. A person who wishes to be licensed as a provider must submit to the Commissioner the application fee established pursuant to subsection 7, and an application, on a form prescribed by the Commissioner, which must contain:

(a) The name and address of the applicant;

(b) A copy of the proposed terms and conditions of use which will govern the provision of earned wage access services by the applicant, which must include, without limitation, a statement by the applicant that he or she will provide services in accordance with the applicable provisions of the federal Electronic Fund Transfer Act 15 U.S.C. §§ 1693 et. seq., and the regulations thereunder;

(c) A copy of the policy of the applicant relating to the privacy of information concerning users;

(d) A schedule of fees proposed to be charged to a user or employer for the provision of earned wage access services, which must include, without limitation, a statement identifying at least one option for a user to obtain earned wage access services from the applicant at no cost to the user;

(e) A statement that the applicant is applying to be licensed as an employer-integrated earned wage access provider or a direct-to-consumer earned wage access provider, or both;

(f) Financial statements of the applicant for the immediately preceding year that have been audited by an independent certified public accountant; and

(g) Any other information required by any regulations adopted by the Commissioner pursuant to section 32 of this act.

3. Upon receipt of the application for licensure and when satisfied that the applicant is entitled thereto, the Commissioner shall notify the applicant of the Commissioner's approval of the application and issue to the applicant a license as a provider that contains a unique license number. A licensee shall prominently display the license on the Internet website of the licensee.

4. Except as otherwise provided by regulation of the Commissioner, a license issued pursuant to this section expires on December 31 of each year unless it is earlier surrendered, suspended or revoked.

5. The license may be renewed annually upon approval of the Commissioner if the licensee, on or after November 1 and on or before December 31 of each year, files an application conforming to the requirements for an initial application.

6. An application for the annual renewal of the license must be accompanied by a fee of not more than $1,000. No investigation fee may be charged for the renewal of the license. If the application or fee for renewal is not filed within the required time, the Commissioner may reinstate the expired license if the licensee files the application, submits the fee for renewal and submits a fee of not more than $1,000 for late renewal, if applicable, on or before February 28 of the year following the expiration date of the license.

7. The Commissioner shall adopt regulations establishing the amount of fees required pursuant to this section. The fees for the application, initial license, and license renewal shall not exceed $1,000. All fees collected pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

8. A license issued pursuant to this section is not transferrable or assignable.

9. This section does not apply to a depository institution in which the deposits are federally insured up to applicable limits.

Sec. 13. *1. In addition to any other requirements set forth in this chapter, each applicant for licensure as a provider must submit:*

(a) Proof satisfactory to the Commissioner that the applicant:

(1) Is competent to transact the business of a provider.

(2) Has not made a false statement on the application for the license.

(3) Has not committed any of the acts specified in subsection 2.

(4) Has not had a license as a provider suspended or revoked within the 10 years immediately preceding the date of the application.

(5) Has not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(b) If the applicant is a corporation or association:

(1) The name and address of each of the directors, trustees and principals of the corporation and of any stockholder who owns 25 percent or more of the applicant's stock;

(2) If required by the Commissioner, a complete set of fingerprints for submission to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national or international background check on the criminal history of the principal officers of the corporation or association, which must include a written statement authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(3) If required by the Commissioner, information concerning the personal history and experience of the principal officers of the corporation or association; and

(4) If required by the Commissioner, information related to any administrative, civil or criminal findings made by any governmental jurisdiction concerning the principal officers of the corporation or association.

(c) If the applicant is a natural person:

(1) Proof satisfactory to the Commissioner that the applicant is at least 21 years of age;

(2) Proof satisfactory to the Commissioner that the applicant is a citizen of the United States or lawfully entitled to work in the United States; and

(3) A complete set of his or her fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant for licensure as a provider if the applicant:

(a) Has committed or participated in any act for which, if committed or done by a licensee, would be grounds for the suspension or revocation of the license.

(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.

(c) Has participated in any act which was a basis for the refusal or revocation of a license pursuant to this chapter.

(d) Has falsified any of the information submitted to the Commissioner in support of the application for the license.

Sec. 13.1. *1. The Commissioner may, in furtherance of his or her duties with respect to the issuance and renewal of licenses pursuant to this chapter, participate in the Nationwide Multistate Licensing System and Registry. The Commissioner may take any action with respect to participation in the Registry that the Commissioner deems necessary to carry out his or her duties, including, without limitation:*

(a) Facilitating and participating in the establishment and implementation of the Registry;

(b) Establishing relationships or contracts with the Registry or other entities designated by the Registry;

(c) Authorizing the Registry to collect and maintain records of applicants for licenses and licensees;

(d) Authorizing the Registry to, on behalf of the Commissioner, collect and process any fees associated with licensure, examinations, fines, assessments and any other similar fees;

(e) Requiring an applicant for a license or a licensee to use the Registry to:

(1) Apply for the issuance or renewal of a license;

(2) Amend or surrender a license;

(3) Submit any reports or the results of any examination that the Commissioner may require;

(4) Pay any applicable fees; and

(5) Engage in any other activity that the Commissioner may require; and

(f) Authorizing the Registry to, on behalf of the Commissioner, collect fingerprints in order to receive or conduct a background check on the criminal history of an applicant for a license or a licensee.

2. The Commissioner may require an applicant for a license or a licensee to submit a complete set of fingerprints when the Commissioner determines necessary. The Commissioner may use the services of the Registry to process and to submit the fingerprints to the Federal Bureau of Investigation, to the Central Repository for Nevada Records of Criminal History, to any federal or state law enforcement agency or to any other entity authorized to receive such information for the purpose of conducting a background check of the criminal history of an applicant for a license or a licensee.

3. An applicant for a license or a licensee shall, in addition to any other fees associated with the license, pay all applicable charges to use the Registry, including, without limitation, any processing charges established by the administrator of the Registry.

4. The Commissioner may adopt any regulations the Commissioner determines to be necessary or appropriate to carry out the provisions of this section. Such regulations may, without limitation, establish additional procedures and requirements for participation in the Registry.

5. The provisions of this section shall not be construed to replace or affect the authority of the Commissioner to grant, deny, suspend, terminate, revoke or refuse to renew a license.

Sec. 13.2. *1. In addition to any other requirements set forth in this chapter, each applicant for the issuance of a license pursuant to this chapter and each owner, officer, director and responsible person of the applicant, each person in control of the applicant and any other person the Commissioner may require in accordance with guidelines of the Registry or other multistate agreements shall submit to the Registry:*

(a) A complete set of fingerprints for submission to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national

and international background check on the criminal history of the person;

(b) Information concerning the personal history, financial history and experience of the person in a form prescribed by the Registry, including, without limitation, an authorization of the person for the Registry and the Commissioner to obtain:

(1) An independent credit report and credit score from a consumer reporting agency described in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f), for the purpose of evaluating the financial responsibility of the person at the time of the submission of the application; and

(2) Additional independent credit reports and credit scores to confirm that the person continues to comply with any applicable requirements concerning financial responsibility;

(c) Information related to any administrative, civil or criminal findings made by any governmental jurisdiction concerning the person; and

(d) Any other information concerning the person that the Registry or the Commissioner may require.

2. As used in this section:

(a) "Control" has the meaning ascribed to it in NRS 682A.047.

(b) "Responsible person" means a person who is employed by an applicant and who has principal, active managerial authority over the provision of services in this State.

Sec. 13.3. *1. Each licensee shall register with and maintain a valid unique identifier with the Registry.*

2. The Commissioner may issue a license through the Registry.

3. To the extent that the Commissioner has delegated to the Registry any of his or her duties with respect to the issuance and renewal of licenses as authorized by the provisions of this chapter, any reference to the Commissioner in this chapter shall be deemed to be a reference to the Registry.

4. As used in this section, "unique identifier" means a number or other identifier assigned by the protocols established by the Registry.

Sec. 14. *1. In addition to the requirements set forth in sections 12 and 13 of this act, a natural person who applies for the issuance or renewal of a license as a provider shall:*

(a) Include the social security number of the applicant in the application submitted to the Commissioner; and

(b) Submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department

of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to paragraph (b) of subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license as a provider may not be issued or renewed by the Commissioner if the applicant:

(a) Fails to submit the statement required pursuant to paragraph (b) of subsection 1; or

(b) Indicates on the statement submitted pursuant to paragraph (b) of subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to paragraph (b) of subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 15. *1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a provider, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. The Commissioner shall reinstate a license as a provider that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose

license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 16. *1. Each licensee shall have in force a surety bond payable to the State of Nevada in the amount of $35,000.*

2. The bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of earned wage access services.

3. A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against the licensee by any creditor or claimant arising out of the business of a provider of earned wage access services in this State, give notice thereof to the Commissioner by registered or certified mail with details sufficient to identify the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

4. Whenever the principal sum of the bond is reduced by recoveries or payments thereon, the licensee shall furnish:

(a) A new or additional bond so that the total or aggregate principal sum of the bonds equals the sum required pursuant to subsection 1; or

(b) An endorsement, duly executed by the surety, reinstating the bond to the required principal sum.

5. The liability of the surety on a bond to a creditor or claimant is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.

6. The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after:

(a) The death of the licensee or the dissolution or liquidation of the business of the licensee; or

(b) The termination of the bond,

➥ whichever occurs first.

Sec. 17. *Each license as a provider shall remain in full force and effect until it expires or is surrendered, revoked or suspended as provided in this chapter and the regulations adopted pursuant thereto.*

Sec. 17.1. *1. The Commissioner may conduct any necessary investigations and hearings to determine whether any*

licensee or other person has violated any of the provisions of this chapter or whether any licensee has conducted himself or herself in a manner which requires the suspension, revocation or denial of renewal of his or her license.

2. In conducting any investigation or hearing pursuant to this chapter, the Commissioner, or any person designated by the Commissioner, may require the attendance and testimony of any person and compel the production of all relevant books, records, accounts and other documents.

Sec. 18. *1. For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the Commissioner or his or her duly authorized representative may, at any time, examine the books, accounts, papers and records that are used or created in connection with the activities covered by the license of:*

(a) Any licensee;

(b) Any other person engaged in the business of a provider or participating in such business as a principal, agent, broker or otherwise; and

(c) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purposes of examination, the Commissioner or his or her authorized representative shall have and be given reasonable access to the offices and places of business, and the files, safes and vaults of such persons.

3. For the purposes of this section, any person who advertises for, solicits or holds himself or herself out as willing to provide earned wage access services is presumed to be engaged in the business of a provider and must obtain a license from the Commissioner.

4. This section does not entitle the Commissioner or his or her authorized representative to investigate the business or examine the books, accounts, papers or records of any attorney who is not a person described in subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his or her capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 18.1. *1. Subject to any limitations or restrictions contained in federal or state law governing the privacy or*

confidentiality of records, the Commissioner shall report regularly any violations of applicable laws committed by applicants for licenses or licensees, enforcement actions and other relevant information to the Registry.

2. The requirements under any federal or state law, including, without limitation, rules of a federal or state court, regarding the privacy and confidentiality of any information or material provided to the Registry and any privilege arising under federal or state law with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with oversight authority over licensees without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

3. The Commissioner may enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the State Regulatory Registry, LLC, or other associations representing governmental agencies.

Sec. 19. *1. The Commissioner may require the attendance of any person and examine him or her under oath regarding:*

(a) Any licensee; or

(b) The subject matter of any audit, examination, investigation or hearing.

2. The Commissioner may require the production of books, accounts, papers and records for any audit, examination, investigation or hearing.

Sec. 20. *The Commissioner or his or her authorized representative may at least annually make an examination of the place of business of each licensee and of the transactions, books, accounts, papers and records of the person as they pertain to the business of a provider and its activities conducted pursuant to a license issued pursuant to this chapter.*

Sec. 21. *1. The Commissioner shall charge and collect from each licensee a fee at the rate established and, if applicable, adjusted pursuant to NRS 658.101 for the cost of any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.*

2. The Commissioner shall employ a certified public accountant to review and conduct independent audits and examinations of licensed providers. The Commissioner shall levy an assessment upon each licensed provider to cover all the costs related to the employment of the certified public accountant and the performance of the audits and examinations.

3. All money collected by the Commissioner pursuant to subsections 1 and 2 must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 22. *1. If the Commissioner finds that probable cause for revocation of a license of a licensee exists and that enforcement of this chapter requires immediate suspension of such a license pending investigation, he or she may, upon 5 days' written notice and a hearing, enter an order suspending the license for a period of not more than 20 days, pending a hearing about the revocation.*

2. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exists, he or she shall notify the licensee not later than 20 days before the date of the hearing. Such notice must state the contemplated action and, in general, the grounds thereof and set a date for a hearing.

Sec. 23. *1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, the Commissioner may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.*

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $50,000 upon a person who conducts any business or activity without a license and for which a license is required pursuant to the provisions of this chapter.

Sec. 24. (Deleted by amendment.)

Sec. 25. *1. A user, an attorney for a user or any other person who believes that any provision of this chapter has been violated may file a complaint with the Commissioner. Such a complaint must include:*

(a) The full name and address of the person filing the complaint;

(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred, including, without limitation, the date, time and place of the alleged violation and the name of each person involved in the alleged violation; and

(c) A certification by the person filing the complaint that the facts alleged in the complaint are true to the best knowledge and belief of the person.

2. Upon receipt of a complaint filed pursuant to subsection 1, the Commissioner shall send a copy of the complaint to the accused licensee. The licensee, or an authorized representative of the licensee, shall file a verified answer to the complaint within 10 business days after receipt of the complaint, unless for good cause shown, the Commissioner extends the time for a period of not more than 30 days. If the licensee, or an authorized representative of the licensee, fails to file a verified answer within the time required by this subsection, the licensee shall be deemed to have admitted to the allegations contained in the complaint.

3. The Commissioner may make investigations and conduct hearings concerning complaints filed with the Commissioner pursuant to this section.

4. Except as otherwise provided in this section, a complaint filed with the Commissioner pursuant to subsection 1, all documents and other information filed with the complaint and all documents, reports and other information resulting from the investigation of the complaint are confidential and may be disclosed only as the Commissioner deems necessary to administer the provisions of this chapter.

Sec. 26. *1. A licensee shall not make any of the following changes unless the licensee has obtained the prior approval of the Commissioner in accordance with the provisions of this section:*

(a) A change in the ownership of 25 percent or more of the capital stock or other equivalent ownership interest of the licensee;

(b) A change in control of the licensee;

(c) A change in the name of the licensee, including the name under which the licensee is doing business; or

(d) A change in the principal business address of the licensee or in the address of any office of the licensee in this State.

2. A licensee who wishes to make any change described in subsection 1 must, not less than 10 business days before the date on which the change is to occur, submit a notice to the Commissioner. Such notice must include any information that the Commissioner may require.

3. Upon receipt of a notice submitted pursuant to subsection 2, the Commissioner shall approve or disapprove the proposed change. The Commissioner may disapprove a proposed change if, in the reasonable judgment of the Commissioner, the proposed

change is inconsistent with the requirements of this chapter. If the Commissioner does not respond to a licensee who submits a notice pursuant to subsection 2, including, without limitation, any request by the Commissioner for additional information from the licensee, within 10 business days of the date on which the notice was submitted, the proposed change shall be deemed approved.

4. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of the licensee.

Sec. 27. *In addition to the notice requirements set forth in section 26 of this act, a licensee must, before making a change in the principal officers or directors of a licensee, submit a notice to the Commissioner within a time period prescribed by the Commissioner. If the submission of such a notice is not possible before the change due to the unilateral resignation of a principal officer or director or other similar circumstance, the licensee must submit to the Commissioner a notice as promptly as possible after such a change. If, in the reasonable judgment of the Commissioner, the change in the principal officers or directors of the licensee is inconsistent with the requirements of this chapter, the Commissioner may require the licensee to take such action as the Commissioner deems necessary to ensure compliance with the provisions of this chapter.*

Sec. 28. *1. On or before April 15 of each year, a licensee shall submit to the Commissioner a report containing, as applicable to the licensee:*

(a) Except as otherwise provided in subsection 2, financial statements for the immediately preceding year that have been audited by an independent certified public accountant;

(b) A copy of each complaint that has been filed by a user who received earned wage access services in this State in the immediately preceding year against the licensee with the Better Business Bureau or the Consumer Financial Protection Bureau and a description of the resolution, if any, of each such complaint;

(c) The total amount of charges paid by users for earned wage access services in the preceding year in this State;

(d) The total number of users in this State who did not receive earned wage access services in the immediately preceding year but who paid a subscription fee or membership fee imposed by a provider for a bona fide group of services that include earned wage access services, including the total amount of subscription fees and membership fees paid by those users in the immediately preceding year;

(e) The total number of users in this State who participated in 12 or more earned wage access transfers provided by the licensee in the immediately preceding year; and

(f) Any other information required by the Commissioner pursuant to regulations adopted pursuant to this chapter.

2. If audited financial statements are not available to a licensee on or before April 15 in any year, the licensee may satisfy the requirements of paragraph (a) of subsection 1 by submitting to the Commissioner:

(a) Unaudited financial statements on or before April 15; and

(b) Audited financial statements when such statements become available to the licensee.

3. Except as otherwise provided in this section, all documents and other information filed with the Commissioner are confidential and may be disclosed only as the Commissioner and the licensee mutually deem necessary to administer the provisions of this section.

4. The Commissioner shall annually publish and make available to the public an aggregated and anonymized analysis of the information submitted as required pursuant to this section.

Sec. 29. *A provider shall:*

1. Develop and implement policies and procedures to respond to questions raised by users and address complaints from users in an expedient manner;

2. Before entering into an agreement with a user for the provision of earned wage access services:

(a) Inform the user of his or her rights under the agreement; and

(b) Fully and clearly disclose all fees associated with the earned wage access services;

3. Allow the user to cancel, at any time and without incurring a fee, his or her participation in an agreement for the provision of earned wage access services;

4. Comply with all local, state and federal privacy and information security laws;

5. If the provider solicits, charges or receives a tip, gratuity or donation from a user:

(a) Conspicuously disclose or cause to be disclosed to the user that any tip, gratuity or donation paid by the user does not inure to the direct benefit of any specific employee of the provider or any other person; and

(b) Conspicuously provide an option for the user to select zero as an amount for such tip, gratuity or donation;

6. If a provider seeks payment of outstanding proceeds, fees or other payments including, without limitation, voluntary tips, gratuities or other donations from a user's account at a depository institution, including through a preauthorized electronic fund transfer:

(a) Comply with the applicable provisions of the Federal Electronic Fund Transfer Act and regulations thereunder; and

(b) Reimburse the user for the full amount of any overdraft or non-sufficient funds fee imposed on a user by the user's depository institution that were caused by the provider attempting to seek payment of any outstanding proceeds, fees or other payments, including, without limitation, voluntary tips, gratuities or other donations on a date before, or in an incorrect amount from, the date or amount disclosed to the user; and

7. The requirements set forth in paragraphs (a) and (b) of subsection 6 do not apply to any payments of outstanding amounts or fees incurred by a user through fraudulent or other unlawful means.

Sec. 30. (Deleted by amendment.)

Sec. 31. *1. A provider shall not:*

(a) Share with an employer any fees, voluntary tips, gratuities or other donations that were received from or charged to a user for earned wage access services;

(b) Use a user's consumer credit report, as defined in NRS 686A.630, or a user's credit score to determine the user's eligibility for earned wage access services;

(c) Charge a late fee, deferral fee, interest or any other penalty or charge for failure to pay outstanding proceeds, fees, voluntary tips, gratuities or other donations;

(d) Report any information about the user regarding the inability of the provider to be repaid outstanding proceeds, fees, voluntary tips, gratuities or any other donations to a consumer agency or debt collector;

(e) Compel or attempt to compel payment by a user of outstanding proceeds, fees, voluntary tips, gratuities or other donations to the provider through any of the following means:

(1) A civil action against the user in any court of competent jurisdiction;

(2) Use of a third party to pursue collection from the user on the provider's behalf; or

(3) Sale or assignment of outstanding amounts to a third-party collector or debt buyer for collection from the user.

2. The limitations set forth in paragraph (e) of subsection 1 shall not preclude the use by a provider of any of the foregoing methods specified in paragraph (e) of subsection 1 to compel or attempt to compel payment of outstanding amounts or fees incurred by a user through fraudulent or other unlawful means, nor shall they preclude a provider from pursuing an employer for breach of its contractual obligations to the provider.

Sec. 32. *The Commissioner may adopt regulations for the administration and enforcement of this chapter, in addition to and not inconsistent with this chapter. Such regulations may include, without limitation, requirements relating to the retention of records by a provider.*

Sec. 33. *1. Nothing in this chapter shall be construed to cause:*

(a) Any earned wage access services provided by a licensee in compliance with this chapter to be deemed:

(1) A loan or other form of credit;

(2) As violating or noncompliant with the laws of this State governing the sale or assignment of, or an order of, earned but unpaid income; or

(3) A money transmission, or to be subject to any of the provisions of law governing loans or money transmitters;

(b) Any licensee in compliance with this chapter to be deemed a creditor, lender or money transmitter; and

(c) Any fee provided to a consumer by a provider in compliance of this chapter to be deemed an interest or finance charge.

2. If there is a conflict between the provisions of this chapter and any other statute, the provisions of this chapter control.

Sec. 33.5. *The proceeds provided to a consumer by a provider in accordance with this chapter shall not be subject to the provisions of chapter 604A or 675 of NRS. A provider of the proceeds shall not be required to be licensed pursuant to chapters 604A and 675 of NRS unless the provider is conducting business pursuant to chapter 604A or 675 of NRS.*

Sec. 34. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,

116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116, 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209,

449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830, 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283, 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055, 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158, 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087, 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185, 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217, 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760, 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, ***and sections 25 and 28 of this act,*** sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or

memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

(1) Was not created or prepared in an electronic format; and

(2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require

the person who has requested the copy to prepare the copy himself or herself.

Sec. 34.5. NRS 604A.250 is hereby amended to read as follows:

604A.250 The provisions of this chapter do not apply to:

1. Except as otherwise provided in NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage companies, thrift companies or insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than $2; and

(b) Does not hold himself or herself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.

9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

13. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

14. A seller of real property who offers credit secured by a mortgage of the property sold.

15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

16. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

17. A provider licensed to provide earned wage access services pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

Sec. 35. NRS 671.020 is hereby amended to read as follows:

671.020 1. This chapter does not apply to any:

(a) Bank, its parent or holding company or any subsidiary thereof, trust company, savings bank, savings and loan association, credit union, industrial bank or industrial loan and investment company, organized and regulated under the laws of this state or of the United States;

(b) Foreign banking corporation licensed to do banking business in this state; ~~[or]~~

(c) Telegraph company providing a public message service ~~[.]~~ ***; or***

(d) A provider who is licensed pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

2. Subsection 1 does not reduce or alter any liability otherwise attaching to the sale, issuance, receipt for transmission or transmission of checks or money in any form.

Sec. 35.5. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. Except as otherwise provided in NRS 675.035, a person doing business under the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit

unions, mortgage companies, thrift companies, pawnbrokers or insurance companies.

2. A real estate investment trust, as defined in 26 U.S.C. § 856.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

5. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

6. Except as otherwise provided in this subsection, any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

7. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

8. A seller of real property who offers credit secured by a mortgage of the property sold.

9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.

10. A person licensed to do business pursuant to chapter 604A of NRS with regard to those services regulated pursuant to chapter 604A of NRS.

11. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

12. Except as otherwise required by the Director of the Department of Business and Industry pursuant to NRS 657A.430 or 657A.620, a participant in the Regulatory Experimentation Program for Product Innovation established and administered pursuant to chapter 657A of NRS.

13. A provider of earned wage access services who is licensed to provide earned wage access services pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

Sec. 36. 1. On or before December 31, 2025, the Commissioner of Financial Institutions shall prepare and submit a report to the Director of the Legislative Counsel Bureau for

transmittal to the Legislature which includes an analysis of and any recommendations concerning earned wage access services and potential changes to regulations governing earned wage access services that may be warranted.

2. As used in this section, "earned wage access services" has the meaning ascribed to it in section 7 of this act.

Sec. 36.1. 1. On or before September 30, 2023, the Commissioner shall prescribe the form and content of an application for a license to provide earned wage access services pursuant to sections 2 to 33.5, inclusive, of this act.

2. As used in this section, "earned wage access services" has the meaning ascribed to it in section 7 of this act.

Sec. 36.2. 1. Notwithstanding the amendatory provisions of this act, a person who, as of January 1, 2023, was engaged in the business of providing earned wage access services in this State may, until December 31, 2024, continue to engage in the business of providing earned wage access services in this State without obtaining a license pursuant to sections 2 to 33.5, inclusive, of this act if the person submits an application for such a license before January 1, 2024, and otherwise complies with this act.

2. As used in this section, "earned wage access services" has the meaning ascribed to it in section 7 of this act.

Sec. 36.4. As soon as practicable after determining that the Nationwide Multistate Licensing System and Registry, as defined in section 10.1 of this act, has sufficient capabilities to allow the Commissioner of Financial Institutions to carry out the amendatory provisions of sections 2 to 33.5, inclusive, of this act, the Commissioner of Financial Institutions shall notify the Governor and the Director of the Legislative Counsel Bureau of that fact, and shall publish notice to the public of that fact on the Internet website of the Division of Financial Institutions of the Department of Business and Industry.

Sec. 37. 1. This section and section 36.4 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, 10.2 to 13, inclusive, 14, 15, 16, 17.1, 18 and 19 to 36.2, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2024, for all other purposes.

3. Sections 10.1, 13.1, 13.2, 13.3 and 18.1 of this act become effective on the date on which the Commissioner of Financial Institutions, pursuant to section 36.4 of this act, notifies the

Governor and the Director of the Legislative Counsel Bureau that the Nationwide Multistate Licensing System and Registry, as defined in section 10.1 of this act, has sufficient capabilities to allow the Commissioner to carry out the provisions of sections 2 to 33.5, inclusive, of this act.

4. Section 17 of this act becomes effective on January 1, 2024.

5. Sections 1 to 13, inclusive, and 16 to 36, inclusive, of this act expire by limitation on December 31, 2029.

6. Sections 14 and 15 of this act expire by limitation on the earlier of December 31, 2029, or the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has the authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

↪ are repealed by the Congress of the United States.

EXHIBIT 2

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman _____ 1/4/2024 _____

Signature of Petition Filer **Date**

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in ***italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business

under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9*

of this chapter, a person shall be subject to the requirements of this chapter notwithstanding the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees, ***provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes***. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), and is, or was at the time of the covered service

member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

Section 17. NRS 21.105 is hereby amended to read as follows:

~~[1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, $2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:~~

~~(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;~~

~~(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;~~

~~(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;~~

~~(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;~~

~~(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;~~

~~(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;~~

~~(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;~~

~~(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;~~

~~(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;~~

~~(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;~~

~~(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;~~

~~(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;~~

~~(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and~~

~~(n) Benefits provided pursuant to any other federal law.]~~

1[~~2~~]. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor [~~and the provisions of subsection 1 do not apply,~~] *$5,000* [~~400~~] or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor, unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.

2[~~3~~]. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 [~~or 2, as applicable~~].

3[4]. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1[~~, or 2~~].

4[~~5~~]. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection [1 ~~or 2~~] includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

5[~~6~~]. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination.[~~, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money.~~] If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

6[~~7~~]. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Section 18. NRS 21.090 is hereby amended to read as follows:

1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, ***$850 of disposable earnings. If the debtor's weekly disposable earnings exceed $850, 90% of disposable earnings in excess of $850 shall be exempt from garnishment unless the weekly disposable earnings of the debtor exceed $1,200, in which case 85% of the disposable earnings in excess of $850 shall be exempt from garnishment. The amount not subject to garnishment is exempt.*** ~~[82 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued was $770 or less, 75 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued exceeded $770, or 50 times the minimum hourly wage prescribed by section 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and in effect at the time the earnings are payable, whichever is greater.]~~ Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor. ***Compensation paid or payable for personal services is earnings regardless of whether the judgment debtor is classified as an independent contractor or an employee.***

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all

furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including:

(1) Subject to the provisions of NRS 115.055, the sum of $605,000 that is paid to the defendant in execution pursuant to subsection 2 of NRS 115.050 or to a spouse pursuant to subsection 3 of NRS 115.050; and

(2) A homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $605,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $1,000,000 in present value, held in:

(1) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(2) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(3) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former

spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $10,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101 et seq., do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

4. The exemptions set forth in this section and NRS 21.105 shall be automatically adjusted to reflect changes by the percentage change, if any, from January 1st to December 31st of the preceding year in the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, beginning the April 1 following enactment and every 3 years thereafter. The Nevada Department of Business & Industry shall publish the 1-year adjustment for an effective date of April 1st for the following year. Adjustments made pursuant to this paragraph must be rounded up to the next $10.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

				Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE - DATE / /	CITY	COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE - DATE / /	CITY	COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE - DATE / /	CITY	COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE - DATE / /	CITY	COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

EXHIBIT 3

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman — 1-24-2024

Signature of Petition Filer — **Date**

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in ***italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS

672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9 of this chapter, a person shall be subject to the requirements of this chapter notwithstanding*

the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding

of interest if they choose, and for any other charges or fees, ***provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes***. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. §

1072(3), and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other

circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

EXHIBIT 4

BDR 52-9
SB 290

EXECUTIVE AGENCY
FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: March 23, 2023

Agency Submitting: Department of Business and Industry, Division of Financial Institutions

Items of Revenue or Expense, or Both	Fiscal Year 2022-23	Fiscal Year 2023-24	Fiscal Year 2024-25	Effect on Future Biennia
3718 - Earned Wage Access Providers (Revenue)			$50,000	$50,000
3730 - Examination Fees (Revenue)			$56,250	$112,500
Total	0	0	$106,250	$162,500

Explanation (Use Additional Sheets of Attachments, if required)

As currently drafted, BDR 52-9 (SB290) creates a new licensing and regulatory program for on-demand pay providers. BDR 52-9 (SB290), if passed, would add approximately 25 new licensees under the Financial Institutions Division's (FID) supervision. FID will be responsible for regulatory development, implementation, examinations, complaint investigations, and all other regulatory matters pertaining thereto.

Name Dale Hansen

Title ASO IV

GOVERNOR'S OFFICE OF FINANCE COMMENTS

Date Wednesday, March 22, 2023

The agency's response appears reasonable.

Name Amy Stephenson

Title Director

FN 8397

Section B1: Summary by GL
Budget Account: 3805 B&I - FINANCIAL INSTITUTIONS INVESTIGATIONS

Item No	Description	Actual 2021-2022	Work Program 2022-2023	W01 Year 1 2023-2024	W01 Year 2 2024-2025
REVENUE					
3717	APPLICATION FEES	0	0	0	25,000
	TOTAL REVENUES FOR BUDGET ACCOUNT 3805	0	0	0	25,000

Section B1: Summary by GL
Budget Account: 3835 B&I - DIVISION OF FINANCIAL INSTITUTIONS

Item No	Description	Actual 2021-2022	Work Program 2022-2023	W04 Year 1 2023-2024	W04 Year 2 2024-2025
REVENUE					
3718	Earned Wage Access Providers	0	0	0	25,000
3730	EXAMINATION FEES	0	0	0	56,250
	TOTAL REVENUES FOR BUDGET ACCOUNT 3835	0	0	0	81,250

Financial Institutions BDR 52-9

	Year 1	Year 2	Biennia
Application (BA 3805)	-	25,000.00	-
Initial License (BA 3835)	-	25,000.00	-
Renewal License (BA 3835)	-	-	50,000.00
Examination (BA 3835)	-	56,250.00	112,500.00
	$ -	$ 106,250.00	$ 162,500.00

TOTALS	Fee	# of Licensees	Total
RGL 3717 Application	$ 1,000.00	25	$ 25,000.00
RGL 3718 Initial License	$ 1,000.00	25	$ 25,000.00
RGL 3718 Renewal License	$ 1,000.00	25	$ 25,000.00
RGL 3730 Examination per hour	$ 75.00	25	$ 56,250.00
approx time for examination 30 hours			
		Total	$ 131,250.00

Todd L. Bice, Esq., Bar No. 4534
TLB@pisanellibice.com
Jordan T. Smith, Esq., Bar No. 12097
JTS@pisanellibice.com
Daniel R. Brady, Esq., Bar No. 15508
DRB@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Attorneys for Plaintiffs

REC'D & FILED
2024 FEB 14 PM 12:22
WILLIAM SCOTT HEN
BY D. ORTIZ
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an Individual,

Plaintiffs,

v.

KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO AGUILAR, in his official capacity as Nevada Secretary of State,

Defendants.

Case No.: 240C000181B

Dept. No.: II

FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CONCERNING STATEWIDE BALLOT INITIATIVES – S-01-2024 AND S-03-2024

(Priority Matter Under NRS 295.061)

Arbitration Exemption: Declaratory and Injunctive Relief

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

Plaintiffs Nevadans For Financial Choice, PAC and Christina Bauer file this First Amended Complaint for declaratory and injunctive relief against Defendants Kate Feldman, Stop Predatory Lending NV, and Francisco Aguilar, in his official capacity as the Nevada Secretary of State pursuant to NRS 295.009, 30.030 and 33.010. Plaintiffs allege as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to NRS 295.061 as this is a challenge to two statewide ballot initiatives. Furthermore, the Court has jurisdiction to grant declaratory and injunctive relief under NRS 30.030 and 33.010.

2. Venue is proper under NRS 295.061(1) which specifies that challenges to ballot initiatives shall be filed in the First Judicial District Court.

Docket 88557 Document 2024-17423

PARTIES

3. Plaintiff Nevadans For Financial Choice is a Nevada Political Action Committee duly registered in the State of Nevada.

4. Plaintiff Christina Bauer is a registered voter and resident of the State of Nevada.

5. Defendant Kate Feldman is, upon information and belief, a resident of the State of Nevada and on January 5, 2024, filed with the Nevada Secretary of State a statewide ballot measure S-01-2024 which she deceptively characterized as "Preventing Predatory Payday and Other Loans Act" (the "First Initiative"). On January 24, 2024, Feldman filed a second initiative, S-03-2024 (the "Second Initiative") which is substantively identical to the First Initiative, except deleting the First Initiative's Sections 17 and 18.

6. Defendant Stop Predatory Lending NV is, upon information and belief, a Nevada nonprofit corporation formed to support both the First Initiative and the Second Initiative.

7. Defendant Francisco Aguilar is the Nevada Secretary of State and is named in his official capacity. As the Secretary, Mr. Aguilar is responsible for the execution and enforcement of Nevada's election laws. His duties include qualifying initiatives for submission to the Nevada Legislature and to disqualify those that are invalid under Nevada law.

COMMON FACTUAL ALLEGATIONS

A. The First Initiative.

8. On January 5, 2024, Defendant Feldman filed the Initiative S-01-2024 with the Nevada Secretary of State. A true and correct copy of the Notice of Intent to Circulate Statewide Initiative associated with S-01-2024 is attached hereto as Exhibit 1.

9. The First Initiative seeks to add a new Chapter 604D to the Nevada Revised Statutes amending a multitude of existing statutory chapters.

10. While the First Initiative purports to be focused upon what it characterizes as "payday loans," in actuality its sweeping breadth covers a wide range of financial transactions. Indeed, the First Initiative's Section 8 lists nearly ten different distinct categories of financial transactions with a final catch-all provision declaring that it also applies to any "loans made by a

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

bank, savings bank, savings and loan association, or credit union organized, chartered, or holding a certificate of authorization to do business under the laws of this State."

11. Without ever using the term, what the First Initiative really seeks to impose is a "usury" law – contrary to existing Nevada law – on wholly distinct and different financial transactions. On top of that, it purports to have Nevada opt out of the "Depository Institutions Deregulation and Monetary Control Act of 1980."

12. Then, in Section 15, the First Initiative creates an exemption until January 1, 2030, for "entities licensed under the laws of this State to provide earn wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023) . . . ."

13. Of course, none of these discreet subjects is disclosed anywhere in the First Initiative's statutory-mandated description of effect.

14. Rather, the very first paragraph of the First Initiative misleads Nevada citizens, declaring:

> Section 2. *Liberal Construction*. *The provisions of this Chapter shall be liberally construed to achieve its purpose, which are combating predatory payday lending and other high cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates on Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

15. In actuality, this assertion is deceptive. The First Initiative applies to virtually all types of loans and has nothing to do with protecting Nevada lenders from out-of-state entities or competition. This misleads the public by pretending that it is directed at what it characterizes as only certain "predatory payday" loans: - whatever that is supposed to mean – when in fact it is designed to apply to wide swaths and distinct forms of financial transactions throughout the State.

16. On top of that, the First Initiative's Section 17 would provide a wholesale change to NRS 21.105, which governs writs of execution and writs of garnishment in the State of Nevada. This distinct aspect of the Fist Initiative purports to eliminate a number of specific exemptions for these writ proceedings, and then proposes to increase the financial size of a singular exemption by more than ten times the existing level adopted by the Nevada Legislature.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

17. In Section 18, the First Initiative would then amend NRS 21.090 to increase the amount of the statutory exemption for disposable earnings, and then adjust that exemption for inflation.

18. The various distinct forms of financial transactions within the reach of the First Initiative, and the specified exemptions to it, are not related to or germane to a single subject matter as NRS 295.009(1)(a) requires.

19. Nor are the provisions dealing with changing Nevada's laws governing writs of execution or garnishment related to or germane to the other provisions of the First Initiative. Rather, each is a separate and distinct subject matter under NRS 295.009(1)(a).

20. This last point is confirmed by the First Initiative's proposed description of effect under NRS 295.009(1)(b), which confesses the single-subject violation:

DESCRIPTION OF EFFECT

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions (payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.
>
> Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

21. As the first sentence makes clear, the Initiative embraces more than one subject "by establishing maximum interest rates charged to consumers, ***and*** shields more of people's savings and earnings from garnishment than under current law." (Emphasis added.)

22. The Initiative's description is also deficient in that it fails to accurately describe for voters just what the Initiative would actually do if enacted. Tellingly, it omits many of its provisions, including its proposal for opting out of federal law.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

B. The Second Initiative.

23. On January 24, 2024, Defendant Feldman filed the Initiative S-03-2024 with the Nevada Secretary of State (the "Second Initiative"). A true and correct copy of the Notice of Intent to Circulate Statewide Initiative associated with S-03-2024 is attached hereto as Exhibit 2.

24. The Second Initiative is substantively identical to the First Initiative, except the First Initiative contains its proposed Section 17 and 18 dealing with writs of garnishment and writs of execution.

25. It appears that the purpose of the Second Initiative is to erroneously lead the Court to believe that the Initiative's sponsors have eliminated the most blatant single-subject violation – Sections 17 and 18 – such that the Court would overlook all of the other defects in the Second Initiative.

26. Yet, the Second Initiative continues to suffer from legal defects, include that it violates Nevada's single-subject requirement, proposing to amend and outright repeal a whole host of different statutory provisions while failing to give proper notice of those changes as Nevada law requires.

27. Indeed, the description of effect for the Second Initiative continues to mislead voters and simply provides as follows:

> **DESCRIPTION OF EFFECT**
>
> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount finances, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

28. The description fails to disclose the actual effect of the Second Initiative and how it repeals a host of other Nevada statutes.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

FIRST CAUSE OF ACTION

(NRS 295.009(1)(a) – First Initiative)

29. Plaintiff incorporates the allegations of Paragraph 1 through 28 as though fully set forth herein.

30. Pursuant to NRS 295. 009(1)(a), an initiative petition must embrace "but one subject and matters necessarily connected therewith and pertaining thereto." To satisfy this requirement, the parts of the proposed initiative must be "functionally related and germane to each other in a way that provides efficient notice of the general subject of, and the interest likely to be effected by, the proposed initiative or referendum." NRS 295.009(2).

31. The First Initiative violates Nevada's single-subject rule by incorporating more than one subject matter.

32. Accordingly, the First Initiative is invalid and must be stricken, with the Defendants enjoined from taking any further action upon it.

SECOND CAUSE OF ACTION

(NRS 295.009(1)(b) – The First Initiative)

33. Plaintiff incorporates the allegations of Paragraph 1 through 32 as though fully set forth herein.

34. NRS 295.009(1)(b) specifies that an initiative must "set forth, in no more than 200 words, a description of effect of the initiative or referendum if the initiative or referendum is approved by the voters." Nevada law precludes any description that is deceptive or misleading. Nevada law mandates that the description explain the ramifications of the purposed initiative so that voters can make an informed decision.

35. Beyond embracing more than one subject matter, the First Initiative's description is deficient because it is deceptive and misleading, and fails to inform voters of essential information regarding the Initiative's effects. It purports to impose a sweeping "usury" provision into Nevada law without ever so specifying. It furthermore deceptively tells voters that it concerns so-called "payday loans," when in fact the Initiative is much broader and includes a host of various and common financing arrangements.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

36. The description of the First Initiative also fails to inform voters of the exemptions to federal law and similar effects of the Initiative.

37. Accordingly, the First Initiative is invalid and should be stricken, with the Defendants enjoined from taking any further action upon it.

THIRD CAUSE OF ACTION

(NRS 295.009(1)(a) – Second Initiative)

38. Plaintiff incorporates the allegations in Paragraphs 1 through 37 as though fully set forth herein.

39. The Second Initiative violates Nevada's single subject rule by incorporating more than one subject matter.

40. Accordingly, the Second Initiative is invalid and must be stricken, with the Defendants enjoined from taking any further action upon it.

FOURTH CAUSE OF ACTION

(NRS 295.009(1)(b) – Second Initiative)

41. Plaintiff incorporates the allegations in Paragraphs 1 through 40 as though fully set forth herein.

42. NRS 295.009(1)(b) specifies that an initiative must "set forth, in no more than 200 words, a description of effect of the initiative or referendum if the initiative or referendum is approved by the voters." Nevada law precludes any description that is deceptive or misleading. Nevada law mandates that the description explain the ramifications of the purposed initiative so that voters can make an informed decision.

43. Beyond embracing more than one subject matter, the Second Initiative's description is deficient because it is deceptive and misleading, and fails to inform voters of essential information regarding the Initiative's effects. It purports to impose a sweeping "usury" provision into Nevada law without ever so specifying. It furthermore deceptively tells voters that it concerns so-called "payday loans," when in fact the Initiative is much broader and includes a host of various and common financing arrangements.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

44. The description of the Second Initiative also fails to inform voters of the exemptions to federal law and similar effects of the Initiative, including the repealing of other statutes.

45. Accordingly, the Second Initiative is invalid and should be stricken, with Defendants enjoined from taking any further action upon it.

FIFTH CAUSE OF ACTION

(Article 19, Section 3)

46. Plaintiff incorporates the allegations in Paragraphs 1 through 45 as though fully set forth herein.

47. Article 19, Section 3 of the Nevada Constitution mandates that "[e]ach referendum petition and initiative petition shall include ***the full text*** of the measure proposed." (Emphasis added.) This means that if the initiative seeks to repeal the effect of a statute, it must set out that statute and show how it will be repealed in detail. The full text must be set forth. Similarly, if an initiative proposes to add a statute, it must set forth the full text of what is to be added.

48. The Initiative's proponents have failed to comply with Article 19, Section 3 of the Nevada Constitution. Both Initiatives propose to amend a whole host of different existing Nevada statutes. For instance, in Section 8, Defendants purport to identify a host of different types of loan transactions to which the new proposed Chapter 604D would apply, but in doing so then proposes to repeal/modify other provisions of Nevada law but fails to set forth just what those provisions are.

49. For instance, in proposed Section 8(1) the Initiatives would override NRS 604A.220 without setting forth its actual terms. Similarly, in Section 8(8) both Initiatives would effectively repeal NRS 97.285 as well as "any other provision of law" because it provides that NRS Chapter 97 is the "exclusive" provisions governing retail installment transactions and it expressly provides that "the provisions of any other statute do not apply to retail installment transactions governed by this Chapter."

50. Similarly, the proposed Section 8(10) would purport to extend the reach of the proposed new Chapter 604D to banks and other institutions, overriding a host of statutory provisions – NRS 662.015, 672.370, 672.460, 672.710, 673.225, 673.3272, 677.730 – without ever

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

setting forth those terms so that voters can see the full magnitude of what these Initiatives propose to add and delete from the Nevada Revised Statutes.

51. Accordingly, both Initiatives are invalid and should be stricken, with the Defendants enjoined from taking any further action upon them.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. A declaration that both Initiatives are invalid under NRS 295.009 by violating the single-subject rule;

2. A declaration that both Initiatives are invalid and do not comply with NRS 295.009(1)(b) because the description of effect is deficient;

3. A declaration that both Initiatives violate Article 19, Section 3 of the Nevada Constitution;

4. An injunction prohibiting the Secretary of State from taking further action on the Initiative;

5. An injunction prohibiting Defendants from circulating this defective petition for verification; and

6. Such further and additional relief that this Court deems appropriate.

AFFIRMATION

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

DATED this 14th day of February, 2024.

PISANELLI BICE PLLC

By: _____

Todd L. Bice, Esq., #4534
Jordan T. Smith, Esq., #12097
Daniel R. Brady, Esq., #15508
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for Plaintiffs

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

EXHIBIT 1

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman

Signature of Petition Filer

1/4/2024

Date

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in ***italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business

under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9*

of this chapter, a person shall be subject to the requirements of this chapter notwithstanding the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees, *provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes*. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), and is, or was at the time of the covered service

member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

Section 17. NRS 21.105 is hereby amended to read as follows:

~~[1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, $2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:~~

~~(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;~~

~~(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;~~

~~(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;~~

~~(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;~~

~~(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;~~

~~(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;~~

~~(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;~~

~~(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;~~

~~(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;~~

~~(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;~~

~~(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;~~

~~(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;~~

~~(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and~~

~~(n) Benefits provided pursuant to any other federal law.~~]

1[~~2~~]. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor [~~and the provisions of subsection 1 do not apply,~~] *$5,000* [~~400~~] or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor, unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.

2[~~3~~]. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 [~~or 2, as applicable~~].

3[~~4~~]. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1[~~ or 2~~].

4[~~5~~]. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection [1 ~~or 2~~] includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

5[6]. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination.[~~, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money.~~] If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

6[~~7~~]. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Section 18. NRS 21.090 is hereby amended to read as follows:

1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, ***$850 of disposable earnings. If the debtor's weekly disposable earnings exceed $850, 90% of disposable earnings in excess of $850 shall be exempt from garnishment unless the weekly disposable earnings of the debtor exceed $1,200, in which case 85% of the disposable earnings in excess of $850 shall be exempt from garnishment. The amount not subject to garnishment is exempt.***~~[82 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued was $770 or less, 75 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued exceeded $770, or 50 times the minimum hourly wage prescribed by section 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and in effect at the time the earnings are payable, whichever is greater.]~~ Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor. ***Compensation paid or payable for personal services is earnings regardless of whether the judgment debtor is classified as an independent contractor or an employee.***

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all

furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including:

(1) Subject to the provisions of NRS 115.055, the sum of $605,000 that is paid to the defendant in execution pursuant to subsection 2 of NRS 115.050 or to a spouse pursuant to subsection 3 of NRS 115.050; and

(2) A homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $605,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $1,000,000 in present value, held in:

(1) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(2) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(3) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former

spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $10,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101 et seq., do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

4. The exemptions set forth in this section and NRS 21.105 shall be automatically adjusted to reflect changes by the percentage change, if any, from January 1st to December 31st of the preceding year in the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, beginning the April 1 following enactment and every 3 years thereafter. The Nevada Department of Business & Industry shall publish the 1-year adjustment for an effective date of April 1st for the following year. Adjustments made pursuant to this paragraph must be rounded up to the next $10.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

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

_____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

EXHIBIT 2

State of Nevada

Secretary of State
Francisco V. Aguilar

Notice of Intent
Statewide Initiative or Referendum Petition

NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

Kate Feldman

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

1. Kate Feldman
2.
3.

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

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

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

X Kate Feldman

Signature of Petition Filer

1-24-2024

Date

EL500
NRS 295.009 and 295.015
Revised 7/3/2023

Explanation - Matter in ***italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term "Annual percentage rate" or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, "loan" means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. *Network-branded defined. "Network-branded" means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. *Application of chapter. This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS

672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;

2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;

3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;

4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;

5. Structuring the transaction in a manner to obscure the fact that it is a loan; or

6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. *Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9 of this chapter, a person shall be subject to the requirements of this chapter notwithstanding*

the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;

2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or

3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter. No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.

2. An action for violation of this chapter may be brought in any court of competent jurisdiction.

3. Any person who violates this chapter is liable to the borrower for:

(a) Actual and consequential damages;

(b) Restitution of any amounts paid;

(c) Treble the amount of any excess fee, interest, charge, or payment;

(d) Statutory damages, at an amount that the court considers just, of at least $250 and no more than $1,000 per violation;

(e) Injunctive or declaratory relief;

(f) Reasonable attorney's fees and costs; and

(g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA. In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services. Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding

of interest if they choose, and for any other charges or fees, *provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes*. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) "Covered service member":

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) "Credit" means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) "Dependent" with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. §

1072(3), and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other

circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties

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

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

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

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by_____.

_____
Notary Public or person authorized to administer oath

Todd L. Bice, Esq., Bar No. 4534
TLB@pisanellibice.com
Jordan T. Smith, Esq., Bar No. 12097
JTS@pisanellibice.com
Daniel R. Brady, Esq., Bar No. 15508
DRB@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Attorneys for Plaintiffs

RECD & FILED
2024 FEB 14 PM 12:23
WILLIAM SCOTT HOEN
CLERK
BY D. ORTIZ DEPUTY

FIRST JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an Individual, Plaintiffs, v. KATE FELDMAN, an Individual; STOP PREDATORY LENDING NV, a Nevada Non-Profit Corporation; and FRANCISCO AGUILAR, in his Official Capacity as Nevada Secretary of State, Defendants.	Case No.: 24OC000181B Dept. No.: II **BRIEF IN SUPPORT OF FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CONCERNING STATE-WIDE BALLOT INITIATIVE**

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

I. INTRODUCTION

Pursuant to NRS 295.061, Plaintiffs Nevadans for Financial Choice and Christina Bauer submit this brief in support of their First Amended Complaint for Declaratory Injunctive Relief Concerning State-Wide Ballot Initiative, addressing two initiatives both being styled "Preventing Predatory Payday and Other Loans Act." The proponents filed the first initiative with the Nevada Secretary of State as S-01-2024 (the "First Initiative") on January 5, 2024, and filed the second initiative S-03-2024 (the "Second Initiative") on January 24, 2024. Plaintiffs commenced this action against the First Initiative on January 26, 2024, explaining why it violates Nevada law; specifically, Nevada's single subject requirement and description of effect under NRS 295.009.

Docket 88557 Document 2024-17423

The Second Initiative is substantively identical, except it drops Sections 17 and 18 from the First Initiative, which proposed provisions addressing writs of garnishment and writs of execution. Other than that change, the Initiatives are the same. However, dropping Sections 17 and 18 does nothing to save the Second Initiative under Nevada law, as it continues to include a multitude of distinct subjects as evidenced by its efforts to amend a host of different chapters of the Nevada Revised Statutes. As Plaintiffs have previously set forth in their brief concerning the First Initiative, there is no single subject present as NRS 295.009(1)(a) requires. The proponents have simply cobbled together a host of distinct statutory provisions that lack a common nexus. The elimination of Sections 17 and 18 from the Second Initiative simply eliminates one of several single-subject problems and does nothing to salvage the Second Initiative. Accordingly, in the interest of judicial economy, Plaintiffs incorporate their brief filed with this Court on January 26, 2024, as though fully set forth herein.

For the reasons previously stated, the Second Initiative necessarily suffers from the defects which it retains from the First Initiative, including violating Nevada's single subject requirement as well as having a deceptive and incomplete description of effect. Plaintiffs limit this brief to pointing out a related defect which precludes either initiative from proceeding.

II. ANALYSIS

A. The Initiatives Also Violate Article 19, Section 3, of the Nevada Constitution.

The Nevada Constitution preserves for the voters the right to propose, amend or repeal legislation. Art. 19, § 2(1). But as the Constitution specifies, "[e]ach referendum petition and initiative petition shall include the full text of the measure proposed." Art. 19, § 3(1). This requirement, along with NRS 295.0575(6), is to provide and require that each signer of the initiative had the ability and "opportunity before signing to read the full text of the act or resolution upon which the initiative or referendum is demanded." NRS 295.0575(6). Failure to set forth the full and complete text of all proposed statutory changes violates Article 19, § 3.

Here, the sponsors of these initiatives ignore the requirements of Nevada law. They propose a whole host of sweeping statutory changes, simply referencing certain sections, but never setting forth the actual text of the various statutes that these Initiatives would amend or repeal. Just one

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

example is the Initiatives' proposed Section 8(8) which would extend the new Chapter 604D to "retail installment transactions." It then proposes to override the specific requirements of NRS 97.285 without actually setting forth for potential signers just what that provision says or does.

Unless members of the public are walking around with copies of the Nevada Revised Statutes, they have no way of ascertaining the actual changes to the law that these Initiatives are proposing. What NRS 97.285 actually provides is that the Legislature established an exclusive set of statutes governing "retail installment transactions." As NRS 97.285 provides, "[e]xcept as otherwise provided by specific statute, the provisions of this chapter governing retail installment transactions ***are exclusive***, and the provisions of any other statute do not apply to retail installment transactions governed by this chapter. If there is a conflict between the provisions of this chapter and any other statute***, the provisions of this chapter control.***" (Emphasis added.) Yet, both proposed Initiatives would now eliminate this exclusivity by effectively repealing NRS 97.285, yet the voters would never know that because this (and a host of other) statutory changes are not set forth in the text.

The same is true for other sections, including (but not limited to) the proposed Section 8(10) which purports to extend the reach of the proposed new Chapter 604D to banks and other financial institutions. These Initiatives would amend/repeal a host of statutory provisions – NRS 662.015, 672.370, 672.460, 672.710, 673.225, 673.3272, 677.730 – without ever setting forth the actual text of those provisions so that voters can read and understand the proposed changes. Again, this failure not only underscores a multitude of separate subjects that the proponents seek to effect, but also how the public is not being informed of the nature and magnitude of proposed statutory amendments or what these Initiatives would repeal.

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

III. CONCLUSION

Simply eliminating one of the multitude of single-subject violations from the First Initiative does not save the Second Initiative. They are both defective under Nevada law and should be enjoined.

AFFIRMATION

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

DATED this 14th day of February, 2024.

PISANELLI ~~BICE~~ PLLC

By: _____

Todd L. Bice, Esq., #4534
Jordan T. Smith, Esq., #12097
Daniel R. Brady, Esq., #15508
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for Plaintiffs

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

REC'D & FILED
April 15, 2024
Date
WILLIAM SCOTT HOEN
CLERK
By _____ Deputy

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an individual, Plaintiffs, vs. KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State, Defendants.	Lead Case No.: 24 OC 00018 1B Dept. No.: II Consolidated with
DAILYPAY, INC., a Delaware Corporation, Plaintiff, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendant, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and KATE FELDMAN, an individual, Intervenor-Defendants.	Case No.: 24 OC 00021 1B Dept. No.: II

BRAVO SCHRAGER LLP

PREFERRED CAPITAL FUNDING-NEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation, Plaintiffs, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual, Defendants, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., Intervenor-Defendant.	Case No.: 24 OC 00023 1B Dept. No.: I
ACTIVEHOURS, INC., a Delaware corporation; STACY PRESS, an individual, Plaintiffs, vs. KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendants.	Case No.: 24 OC 00029 1B Dept. No.: I

REC'D & FILED
2024 APR 8 AM 8:11
WILLIAM SCOTT HOEN
CLERK
BY
DEPUTY
FILED IN ERROR
FILED IN ERROR

FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER DENYING PLAINTIFFS' LEGAL CHALLENGE TO INITIATIVE PETITION S-03-2024

This matter came before this Court following four complaints, filed by four different sets of plaintiffs, pursuant to NRS 295.061, challenging the legal sufficiency of Initiative Petition S-03-2024 (the "Petition"). On January 24, 2024, Kate Feldman filed Initiative Petition S-03-2024 with the Nevada Secretary of State (the

"Secretary").

The Court, having reviewed the papers and pleadings on file, considered the matter, being fully advised, and good cause appearing, finds, concludes, and orders as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW[1]

A. FINDINGS OF FACT

1. Initiative Petition S-03-2024

On January 24, 2024, Kate Feldman, on behalf of Stop Predatory Lending NV, filed the Petition with the Secretary. The Petition seeks to amend the Nevada Revised Statutes by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act.

The Petition includes a description of effect as required by NRS 295.009(1)(b), which reads, in full:

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

2. Procedural History

On January 26, 2024, Plaintiffs Nevadans For Financial Choice and Christina Bauer (collectively, "Nevadans for Financial Choice" or "NFFC") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative

[1] Any findings of fact which are more appropriately considered conclusions of law shall be treated as such, and any conclusions of law which are more appropriately considered findings of fact shall be treated as such.

Petition S-01-2024, pursuant to NRS 295.061, and a Brief in Support of the Complaint. Subsequently, on February 14, Plaintiffs Nevadans for Financial Choice filed a First Amended Complaint timely adding Initiative Petition S-03-2024 to their challenge.

On January 29, Plaintiff DailyPay, Inc. ("DailyPay") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On January 29, Plaintiffs Preferred Capital Funding - Nevada, LLC and Alliance For Responsible Consumer Legal Funding (collectively, "Preferred Capital") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On February 13, Plaintiffs ActiveHours, Inc. and Stacy Press (collectively, "ActiveHours") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative Petition S-03-2024, pursuant to NRS 295.061.

On or about February 22, the parties stipulated to, and the Court ordered, that the filed suits be consolidated into one action to make the matter more efficient in terms of judicial economy, and the parties agreed to a briefing schedule. After briefing, the Court held hearing on the consolidated matters on March 22, 2024.

B. CONCLUSIONS OF LAW

1. The Petition Does Not Violate Nevada's Single Subject Rule

NRS 295.009(1) provides that "[e]ach petition for initiative or referendum must ... [e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto." Subsection 2 of that statute explains that an initiative "embraces but one subject and matters necessarily connected therewith and pertaining thereto, if the parts of the proposed initiative ... are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative." NRS 295.009(2).

The single-subject requirement "facilitates the initiative process by preventing petition drafters from circulating confusing petitions that address multiple subjects." *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006). Thus, "the single-subject requirement helps both in promoting informed decisions and in preventing the enactment of unpopular provisions by attaching them to more attractive proposals or concealing them in lengthy, complex initiatives (i.e., logrolling)." *Las Vegas Taxpayer Accountability Comte. v. City Council of City of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009).

In considering single-subject challenges, courts must first determine the initiative's purpose or subject. "To determine the initiative's purpose or subject, this court looks to its textual language and the proponents' arguments." *Las Vegas Taxpayer*, 125 Nev. at 180, 208 P.3d at 439. Courts also will look at whether the description of effect articulates an overarching purpose and explains how provisions relate to a single subject. *Id.*

Furthermore, and most recently, in *Helton v. Nevada Voters First PAC*, 138 Nev. Adv. Op. 45, 512 P.3d 309 (2022), the Nevada Supreme Court stated that "even if an initiative petition proposes more than one change, each of which could be brought in separate initiative petitions, the proper consideration is whether the changes are functionally related and germane to each other and the petition's subject." *Id.*, 512 P.3d at 314. The Court found that "(b)oth categories of changes proposed in the ... initiative concern the election process in Nevada and more specifically how candidates for the specifically defined partisan offices are presented to voters and elected." *Id.*, 512 P.3d at 314-15.

In this case, the Court finds that the primary purpose of the Petition is to limit interest rates on consumer loan transactions, and that all components of the Petition are functionally related and germane to that purpose. The Court finds that the Petition limits consumer interest rates on the transactions it defines as loans to 36% annually. Each of the provisions of the Petition either establish that limit, make

conforming or ancillary changes to other statutes, or—in the case of the Sections 10 through 14, provide enforcement mechanisms necessary and germane to the operation of the Petition's purpose. Further, the Court finds that the Petition's text, its description, and the arguments of the Proponents in briefing and at hearing of effect confirm the Petition's primary purpose. Therefore, this Court finds that Initiative Petition S-03-2024 does not violate NRS 295.009(1)(a)'s single-subject requirement.

2. The Petition's Descriptions Of Effect Is Legally Adequate

Under NRS 295.009(1)(b), every initiative must "[s]et forth, in not more than 200 words, a description of the effect of the initiative or referendum if the initiative or referendum is approved by the voters." The purpose of the description is to "prevent voter confusion and promote informed decisions." *Nevadans for Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006). Thus, "[t]he importance of the description of effect cannot be minimized, as it is what the voters see when deciding whether to even sign a petition." *Coal. for Nev.'s Future v. RIP Com. Tax, Inc.*, No. 69501, 2016 WL 2842925 at *2 (2016) (unpublished disposition) (citing *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013)). "[T]he description of effect may hold even more impact with respect to a referendum, since merely gathering sufficient signatures to place a referendum on the ballot guarantees a change to the law regardless of the election's outcome." *Id.* (citing Nev. Const. art. 19, § 1(3) (providing that, if the voters approve the referendum, the statute "shall stand as the law of the state and shall not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people," and if the voters disapprove the statute or resolution, it is rendered void)).

The Nevada Supreme Court has repeatedly held that "a description of effect must be straightforward, succinct, and non-argumentative, and it must not be deceptive or misleading." *Educ. Initiative PAC*, 129 Nev. at 42, 293 P.3d at 879 (internal quotation marks and citation omitted). It must also "explain the[]

ramifications of the proposed amendment" in order to allow voters to make an informed decision. *Nev. Judges Ass'n v. Lau*, 112 Nev. 51, 59, 910 P.2d 898, 903 (1996).

This Court finds that the Petition's description of effect meets the requirements of Nevada law. The description of effect is straightforward, succinct, under 200 words, and there is no basis for a finding of any argumentative language. The description proceeds, succinctly and directly, through (1) a general statement of the Petition's purpose; (2) a neutral and accurate statement of current law regarding interest rate limitations; (3) a description of the transactions to which the proposed cap would apply; and (4) a statement of enforcement aspects of the proposal. The Court finds that Plaintiffs fail to meet the burden of showing that the Petition's description of effect does not comply with NRS 295.009. Therefore, the Court finds the description of effect for Initiative Petition S-03-2024 satisfies Nevada's NRS 295.009 requirement as the plain language of the description is straightforward, succinct, and non-argumentative.

3. The Petition Does Not Contain An Unfunded Mandate

Article 19, section 2(1) of the Nevada Constitution provides that the initiative process is "subject to the limitations of' Article 19, Section 6, which "does not permit the proposal of any statute or statutory amendment which makes an appropriation or otherwise requires the expenditure of money, unless such statute or amendment also imposes a sufficient tax, not prohibited by the constitution, or otherwise constitutionally provides for raising the necessary revenue." As the Nevada Supreme Court holds, Section 6 applies to all proposed initiatives. *Rogers v. Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036 (2001). The primary purpose behind this requirement is to ensure that no initiative is presented to the voters without funding provisions when the initiative requires an appropriation or expenditure.

"[A]n appropriation is the setting aside of funds, and an expenditure of money is the payment of funds." *Rogers v. Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036

(2001). "A necessary appropriation or expenditure in *any* set amount or percentage is a new requirement that otherwise does not exist." *Id.*, 117 Nev. at 176. "[A]n initiative makes an appropriation or expenditure when it leaves budgeting officials no discretion in appropriating or expending the money mandated by the initiative—the budgeting official must approve the appropriation or expenditure, regardless of any other financial considerations." *Herbst Gaming, Inc. v. Heller,* 122 Nev. 877, 890, 141 P.3d 1224, 1233 (2006).

Here, this Court finds that plaintiffs do not provide any evidence regarding the expected unfunded expenditures or costs they insist come along with the Petition, but rather argue that increased regulation must somehow necessarily increase the workload of state personnel, and therefore will increase state expenditures in some form. While the Court is not unsympathetic to that argument, Nevada Supreme Court case law authority interpreting Article 19, Section 6 does not support invalidating a proposed ballot measure on those grounds. This Petition does not require specific enforcement procedures, creates no additional regulatory bodies or agencies, and Plaintiffs cannot point to specific instances of mandatory, non-discretionary appropriations that would have to be made should this Petition become law. Therefore, the Court finds that Plaintiffs fail to meet the burden of showing that the Petition violates Article 19, Section 6 of the Nevada Constitution.

4. The Petition Does Not Violate Article 19, Section 3

Under Article 19, Section 3 of the Nevada Constitution, proponents must "include the full text of the measure proposed" with their initiative petition. Nev. Const. art. 19, § 3. Plaintiffs DailyPay and Nevadans for Financial Choice make "full-text" arguments against the Petition. This Court rejects plaintiffs' arguments and finds that the Petition contains every provision that is proposed to be circulated for signatures and to considered by the electorate, and that therefore there is no violation of Article 19, Section 3.

Furthermore, this Court rejects the other various challenges to the Petition's

legal sufficiency. [2]

ORDER

Based on the foregoing findings of fact and conclusions of law:

1. **IT IS THEREFORE ORDERED** and declared that Initiative Petition S-03-2024 is legally sufficient.

2. **IT IS FURTHER ORDERED** and declared that Initiative Petition S-03-2024 does not violate Nevada's single subject rule.

3. **IT IS FURTHER ORDERED** and declared that Initiative Petition S-03-2024's description of effect meets the requirements of Nevada law.

4. **IT IS FURTHER ORDERED** and declared that Initiative Petition S-03-2024 does not contain an unfunded mandate.

///

///

///

///

///

///

///

///

///

///

///

///

[2] To the extent other arguments were raised by any Plaintiffs, like DailyPay's contention that the Petition is a referendum instead of an initiative, the Court has considered them and finds them without merit. The Petition does not change a single word of SB 290 (2023). Further, the Petition makes numerous amendments to Nevada statutes, and creates new statutory sections; therefore the Petition is a statutory initiative pursuant to Article 19, Section 2(3).

5. **IT IS FURTHER ORDERED** that plaintiffs' challenges to Initiative Petition S-03-2023 are rejected, and Plaintiffs' complaints are dismissed with prejudice as to their challenge to Initiative Petition S-03-2023.

Dated this 12th day of April, 2024.

William A. Maddox
District Court Judge

Respectfully Submitted by:

/s/ Bradley S. Schrager
BRADLEY S. SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)
BRAVO SCHRAGER LLP
6675 South Tenaya Way, Suite 200
Las Vegas, Nevada 89113

Attorneys for Kate Feldman and
Stop Predatory Lending NV

REC'D & FILED
April 15, 2024
Date
WILLIAM SCOTT HOEN
CLERK
By _____ Deputy

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an individual, Plaintiffs, vs. KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State, Defendants.	Lead Case No. 24-OC-00021B Dept. No. II Consolidated with
DAILYPAY, INC., a Delaware Corporation, Plaintiff, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendant, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and KATE FELDMAN, an individual, Intervenor-Defendants.	Case No.: 24 OC 00021 1B Dept. No.: II

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

Docket 88557 Document 2024-17423

PREFERRED CAPITAL FUNDING NEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation, Plaintiffs, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual, Defendants, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., Intervenor-Defendant.	Case No.: 24 OC 00023 1B Dept. No.: I
ACTIVEHOURS, INC., a Delaware corporation; STACY PRESS, an individual, Plaintiffs, vs. KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendants.	Case No.: 24 OC 00029 1B Dept. No.: I

FILED & FILED
2024 APR 15
WILLIAM
CLERK
BY
DEPUTY
FILED IN ERROR

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

~~[PROPOSED]~~ FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' LEGAL CHALLENGES TO INITIATIVE PETITION S-01-2024

This matter came before this Court following four complaints, filed by four different sets of plaintiffs, challenging the legal sufficiency and procedural defects of Initiative Petition S-01-2024 (the "Petition"), under NRS 295.061. Intervenor-Defendant Kate Feldman ("Ms. Feldman") filed the Petition on January 5, 2024, with Defendant Nevada Secretary of State (the "Secretary"). On March 22, 2024, the Court held a hearing on the several challenges to the Petition. The Court, having reviewed the papers and pleadings on file, having considered the oral arguments presented by the parties, and being fully advised and good cause appearing, finds, concludes, and orders as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. FINDINGS OF FACT

1. Initiative Petition S-01-2024

Ms. Feldman filed the Petition with the Secretary on January 5, 2024. The Petition proposes to amend the Nevada Revised Statutes to include a new chapter 604D entitled the "Preventing Predatory Payday and Other Loans Act." Ms. Feldman later filed a second Initiative Petition, S-03-2024, on January 24, 2024, which proposes to enact the same "Preventing Predatory Payday and Other Loans Act," but omits provisions included in the first Petition, S-01-2024. This Order addresses only the first Petition.

The first Petition's Description of Effect, which is required under NRS 295.009(1)(b), states as follows:

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.
>
> Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

The Petition consists of 18 Sections and nearly 18 pages of new text to be added to the Nevada Revised Statutes, as well as proposed deletions of, and amendments to, existing statutes. The existing statutes that the Petition proposes to amend or delete relate to numerous other statutory chapters that address topics including deferred deposit loans, high-interest loans, retail installment transactions, banking, writs of execution, garnishment, property exempt from

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

judgment collection, and other matters. Generally, the Petition's "loan"-related provisions and related penalties against "payday lender[s] or other person[s]" are proposed in Sections 1 through 16. The wage garnishment provisions of the proposed "Preventing Predatory Payday and Other Loans Act" are set forth in Sections 17 through 18.

The Petition's proposed Act, at Section 5(1)-(2), defines the term "Loan" to include a variety of financial transactions involving money or credit provided to a consumer, as follows:

> ***Loan defined.***
>
> ***1. For purposes of this chapter, "loan" means and includes:***
>
> ***(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;***
>
> ***(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and***
>
> ***(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.***
>
> ***2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.***

The Petition, at Section 9, proposes a "maximum interest rate" of 36% per year to apply to "any loan or other transaction subject to" the proposed Act. In Sections 10 through 13, the Petition proposes various penalties for exceeding the proposed maximum rate or otherwise violating the provisions of the proposed Act. The Petition, at Section 14, also would constitute a declaration for the State of Nevada to "opt out" of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980," Pub. L. 96-221, or "DIDMCA." The Petition further proposes, at Section

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

15, a prospective application of Section 9's maximum interest rate, purporting to apply the maximum rate to "entities licensed…to provide earned wage access services," as defined in Senate Bill 290 (Nev. Leg. 2023), beginning on January 1, 2030.

In addition to its various "payday loan"-related provisions and civil penalties, the Petition's Section 17 proposes to eliminate NRS 21.105(1)(a)-(n), which exempts certain sources of income of a judgment debtor from garnishment, up to $2,000. This Section of the Petition also eliminates existing statutory categories of sources of income that NRS 21.105(1)(a)-(n) protects from garnishment, and instead proposes a single, greater amount of $5,000 that is not subject to execution. The Petition also revises and restricts existing provisions under NRS 21.105(6) that afford immunity for financial institutions that make a commercially reasonable effort to determine whether money in a judgment debtor's account is exempt from execution.

Finally, Section 18 of the Petition proposes to amend NRS 21.090(1)(g), which exempts from execution certain amounts of a judgment debtor's disposable earnings for any workweek, on a sliding scale depending on the amount the judgment debtor earns during that period. The Petition eliminates NRS 21.090(1)(g)'s existing protections and replaces them with higher thresholds, such that more of a judgment debtor's disposable earnings would be exempt from garnishment. The Petition also redefines NRS 21.090(1)(g)(2)'s definition of "earnings" to specify that "[c]ompensation paid or payable for personal services is earnings regardless of whether the judgment debtor is classified as an independent contractor or an employee." Finally, the Petition proposes to adjust its revised exemption amounts for inflation pursuant to the Consumer Price Index, and directs the Nevada Department of Business and Industry to publish the annual adjustment each year, "round[ing] up" each annual adjustment "to the next $10."

2. Procedural History

On January 26, 2024, Plaintiffs Nevadans For Financial Choice and Christina Bauer (collectively, "Nevadans for Financial Choice" or "NFFC") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative Petition S-01-2024, pursuant to NRS 295.061, and submitted a Brief in Support of the Complaint. Subsequently, on February 14,

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

NFFC filed a First Amended Complaint timely adding Initiative Petition S-03-2024 to their challenge.

On January 29, 2024, Plaintiff DailyPay, Inc. ("DailyPay") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On January 29, 2024, Plaintiffs Preferred Capital Funding - Nevada, LLC and Alliance For Responsible Consumer Legal Funding (collectively, "Preferred Capital") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On February 13, 2024, Plaintiffs ActiveHours, Inc. and Stacy Press (collectively, "ActiveHours") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative Petition S-03-2024, pursuant to NRS 295.061.

On or about February 22, 2024, the parties stipulated to, and the Court ordered, that the filed suits be consolidated into one action to make the matter more efficient in terms of judicial economy, the intervention of Ms. Feldman and Stop Predatory Lending NV, a Nevada nonprofit corporation, as appropriate, and a briefing schedule. Ms. Feldman and Stop Predatory Lending NV are collectively referred to herein as the "Proponents." After briefing, the Court held hearing on the consolidated matters on March 22, 2024.

B. CONCLUSIONS OF LAW

The Petition Violates Nevada's Single-Subject Rule.

NRS 295.009(1) provides that "[e]ach petition for initiative or referendum must... [e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto." NRS 295.009(2) further provides that an initiative "embraces but one subject and matters necessarily connected therewith and pertaining thereto, if the parts of the proposed initiative... are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative[.]" NRS 295.009(2). NRS 295.061 authorizes a challenge to a proposed initiative when it violates the single-subject rule set forth in NRS 295.009(1)-(2). Specifically, "whether an initiative or

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

referendum embraces but one subject and matters necessarily connected therewith and pertaining thereto…may be challenged by filing a complaint in the First Judicial District Court." NRS 295.061(1).

Nevada's single-subject requirement "facilitates the initiative process by preventing petition drafters from circulating confusing petitions that address multiple subjects." *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006). Thus, "the single-subject requirement helps both in promoting informed decisions and in preventing the enactment of unpopular provisions by attaching them to more attractive proposals or concealing them in lengthy, complex initiatives (*i.e.*, logrolling)." *Las Vegas Taxpayer Accountability Comte. v. City Council of City of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009). After all, unlike other "means of enacting law, the initiative process typically does not allow for unput in drafting proposed laws." *Id.*, 125 Nev. at 177 n. 6, 208 P.3d at 437 n.6 (citation omitted).

When considering a single-subject challenge, this Court must first determine the initiative's purpose or subject, "and then determine if each provision is functionally related and germane to each other and the initiative's purpose or subject." *Helton v. Nev. Voters First PAC*, 138 Nev. Adv. Op. 45, 512, P.3d 309, 314 (2022). "To determine the initiative's purpose or subject, this court looks to its textual language and the proponents' arguments." *Las Vegas Taxpayer*, 125 Nev. at 180, 208 P.3d at 439. Courts also will look at whether the description of effect articulates an overarching purpose and explains how provisions relate to a single subject. *Id.* The proponents of an initiative "may not circumvent the single-subject rule by phrasing the proposed law's purpose or object in terms of 'excessive generality,'" nor "'join[ ] disparate provisions which appear germane only to topics of excessive generality[.]'" *Id.* (quoting *Harbor v. Deukmejian*, 240 Cal.Rptr. 569, 742 P.2d 1290, 1303 (1987)).

The Petition violates Nevada's single-subject rule in several respects. First, by its own description, the Petition embraces at least two disparate subjects in purporting to "establish[ ] maximum interest rates charged to consumers, and shield[ ] more of people's savings and earnings from garnishment than under current law." The Petition's proposed changes to NRS Chapter 21, which contains Nevada's statutes on garnishment, execution, and exemptions from judgments,

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

have no nexus to the Petition's other putative purpose of imposing maximum interest rates on "loans" and other transactions. Imposing a maximum interest rate on lenders and others is not "functionally related and germane to" shielding a judgment debtor's savings and earnings from garnishment. Nor is shielding a judgment debtor's savings from garnishment a matter that is "necessarily connected" with and pertaining to "Preventing Predatory Payday and Other Loans." The shielding of debtor assets in the collection of judgments applies beyond those arising out of the proposed "Preventing Predatory Payday and Other Loans Act." By the Petition's own text, it is clear that the Proponents have improperly joined multiple discrete and disparate subjects together into a single Petition, in violation of NRS 295.009's single-subject rule.

Second, the Proponents' arguments in favor of the Petition demonstrate that the Petition embraces more than a single subject, even when including matters necessarily connected therewith and pertaining thereto. In their Omnibus Response Brief, Proponents argue that the common policy goal behind the Petition "is to establish standards by which to regulate usurious behavior by lenders and others in Nevada," noting "the common usage of 'usury' is the lending of money at unconscionable or exorbitant rates of interest." Omnibus Resp., at 1. But the Petition's proposed changes concerning garnishment, writs of execution, the definition of "earnings" for purposes of independent contractors versus employees, and other proposed changes, have nothing to do with "the lending of money at unconscionable or exorbitant rates of interest." A debtor may become a judgment debtor for reasons unrelated to "Predatory Payday and Other Loans." A judgment debtor may be subject to garnishment for any number of reasons, including for unpaid debts that may or may not be subject to any interest rate at all, much less any purportedly "unconscionable" interest rate. To the extent the Proponents claim the Petition's overarching purpose is to prevent "the lending of money at unconscionable or exorbitant rates of interest," the Proponents' argument demonstrates that the Petition embraces multiple subjects, contrary to NRS 295.009's single-subject requirement.

Further, to the extent the Proponents argue the Petition's disparate components are meant "to achieve a single goal: ensuring Nevadans have better debt protections," the Proponents have articulated an excessively generalized subject matter that, if adopted, would effectively nullify the

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

single-subject rule. *Las Vegas Taxpayer Accountability Committee*, 125 Nev. 165, 181, 208 P.3d 429, 440 (determining that "the purported single subject articulated in appellants' opening brief, 'voter approval of use of taxpayer funds to finance large new development projects,'" was "an excessively general subject that cannot meet NRS 295.009's requirement"). While the policy goal of ensuring Nevadans have better debt protections may be laudable, those protections are distinct from proposed laws affecting the act of lending (as the Petition asserts to do). Additionally, the general scope of that goal could plausibly relate to any proposal on some level. Were such an excessively generalized subject permissible, there would be no need for the single-subject rule. As statutes are not created to be superfluous, though, the single-subject rule within NRS 295.009 must be given effect. To satisfy the single-subject rule, NRS 295.009(2) more particularly requires "the parts of the proposed initiative or referendum" to be "functionally related and germane ***to each other*** in a way that provides sufficient notice of the general subject of, and of the interest likely to be affected by, the proposed initiative or referendum." (Emphasis added).

The Petition utterly fails to meet NRS 295.009's defined standard. Accordingly, the Court finds that the Petition violates NRS 295.009's single-subject rule and cannot be circulated.[1]

///

///

///

///

///

///

///

///

///

[1] The Court has also considered the remaining arguments raised by Plaintiffs, including challenges to the Petition's description of effect, the Petition's purported fiscal impacts, and the Petition's arguable referendum on Senate Bill 290's earned wage access provisions. In light of this Court's conclusion that the Petition violates the single-subject rule, the Court need not reach the Plaintiffs' remaining arguments. *Miller v. Burk*, 124 Nev. 579, 588-89 (2008) (the Court need not address issues that are unnecessary to resolve the case at hand); *Nuleaf CLV Dispensary, LLC v. State Dep't of Health & Hum. Servs., Div. of Pub. & Behav. Health*, 134 Nev. 129, 136 n.2, 414 P.3d 305, 311 n.2 (2018).

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

ORDER

Based on the foregoing findings of fact and conclusions of law:

1. **IT IS ORDERED** and declared that Initiative Petition S-01-2024 violates Nevada's single subject rule under NRS 295.009.

2. **IT IS FURTHER ORDERED** and declared that the Nevada Secretary of State is enjoined from permitting Initiative Petition S-1-2024 from being circulated for signatures.

Dated this 12th day of April, 2024.

William A. Maddox

District Court Judge

Respectfully Submitted by:

/s/ Matthew Morris

J. Malcolm DeVoy (11950)
Matthew Morris (15068)
5441 Kietzke Lane, 2nd Floor
Reno, NV 89511
jmdevoy@hollandhart.com
mcmorris@hollandhart.com
Attorneys for Plaintiffs DailyPay, Inc.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

BRADLEY S. SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)
BRAVO SCHRAGER LLP
6675 South Tenaya Way, Suite 200
Las Vegas, Nevada 89113
Tele.: (702) 996-1724
Email: bradley@bravoschrager.com
Email: daniel@bravoschrager.com
Attorneys for Kate Feldman and Intervenor-Defendant

2024 APR 16 AM 11:
BY

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an individual, Plaintiffs, vs. KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State, Defendants,	Lead Case No.: 24 OC 00018 1B Dept. No.: II Consolidated with
DAILYPAY, INC., a Delaware Corporation, Plaintiff, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendant, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and KATE FELDMAN, an individual, Intervenor-Defendants.	Case No.: 24 OC 00021 1B Dept. No.: II

BRAVO SCHRAGER LLP

PREFERRED CAPITAL FUNDING-NEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation, Plaintiffs, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual, Defendants, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., Intervenor-Defendant.	Case No.: 24 OC 00023 1B Dept. No.: I
ACTIVEHOURS, INC., a Delaware corporation; STACY PRESS, an individual, Plaintiffs, vs. KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendants.	Case No.: 24 OC 00029 1B Dept. No.: I

NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

NOTICE IS HEREBY GIVEN that the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' LEGAL CHALLENGES TO INITIATIVE PETITION S-01-2024 was entered in the above-

captioned matter on the 15th of April, 2024. A true and correct copy is attached hereto as Exhibit 1.

AFFIRMATION

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

DATED this 15th day of February, 2024.

BRAVO SCHRAGER LLP

By: _____

BRADLEY S. SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)
6675 South Tenaya Way, Suite 200
Las Vegas, Nevada 89113
Tele.: (702) 996-1724
Email: bradley@bravoschrager.com
Email: daniel@bravoschrager.com

Attorneys for Kate Feldman and Intervenor-Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February, 2024, I served the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** via electronic mail, per the February 22, 2024, Stipulation and Scheduling Order of the Court, as follows:

Laena St Jules, Esq.
OFFICE OF THE ATTORNEY GENERAL
LStJules@ag.nv.gov
Attorneys for Defendant, Francisco V. Aguilar

Todd L. Bice, Esq.
Jordan T. Smith, Esq.
Daniel R. Brady, Esq.
PISANELLI BICE PLLC
TLB@pisanellibice.com
JTS@pisanellibice.com
DRB@pisanellibice.com
Attorneys for Plaintiffs Nevadans for Financial Choice and Christina Bauer

J. Malcolm DeVoy, Esq.
Matthew Morris, Esq.
HOLLAND & HART LLP
jmdevoy@hollandhart.com
mcmorris@hollandhart.com
Counsel for Plaintiff DailyPay, Inc.

Joshua H. Reisman, Esq.
Elizabeth M. Sorokac, Esq.
Michael R. Kalish, Esq.
REISMAN SOROKAC
jreisman@rsnvlaw.com
esorokac@rsnvlaw.com
mkalish@rsnvlaw.com
Attorneys for Plaintiffs Preferred Capital Funding- Nevada, LLC, and Alliance For Responsible Consumer Legal Funding

Severin A. Carlson, Esq.
Sihomara L. Graves, Esq.
KAEMPFER CROWELL
scarlson@kcnvlaw.com
sgraves@kcnvlaw.com
Attorneys for Plaintiffs Activehours, Inc. and Stacy Press

Billie Shadron
Judicial Assistant
First Judicial District Court, Dept. II
bshadron@carson.org

Dannielle Fresquez

Dannielle Fresquez, an Employee of
BRAVO SCHRAGER LLP

INDEX OF EXHIBITS

Exhibit No.	Document Title	No. of Pages
1	Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' Legal Challenge to Initiative Petition S-01-2024	10

EXHIBIT 1

EXHIBIT 1

REC'D & FILED
April 15, 2024
Date
WILLIAM SCOTT HOEN
CLERK
By _____ Deputy

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

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an individual,

Plaintiffs,

vs.

KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State,

Defendants.

Lead Case No. 24-OC-00021B

Dept. No. II

DAILYPAY, INC., a Delaware Corporation,

Plaintiff,

vs.

FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE,

Defendant,

and

STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and KATE FELDMAN, an individual,

Intervenor-Defendants.

Consolidated with

Case No.: 24 OC 00021 1B
Dept. No.: II

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

PREFERRED CAPITAL FUNDING NEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation,

Plaintiffs,

vs.

FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual,

Defendants,

and

STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.,

Intervenor-Defendant.

Case No.: 24 OC 00023 1B
Dept. No.: I



ACTIVEHOURS, INC., a Delaware corporation; STACY PRESS, an individual,

Plaintiffs,

vs.

KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE,

Defendants.

Case No.: 24 OC 00029 1B
Dept. No.: I

[PROPOSED] FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' LEGAL CHALLENGES TO INITIATIVE PETITION S-01-2024

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

This matter came before this Court following four complaints, filed by four different sets of plaintiffs, challenging the legal sufficiency and procedural defects of Initiative Petition S-01-2024 (the "Petition"), under NRS 295.061. Intervenor-Defendant Kate Feldman ("Ms. Feldman") filed the Petition on January 5, 2024, with Defendant Nevada Secretary of State (the "Secretary"). On March 22, 2024, the Court held a hearing on the several challenges to the Petition. The Court, having reviewed the papers and pleadings on file, having considered the oral arguments presented by the parties, and being fully advised and good cause appearing, finds, concludes, and orders as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. FINDINGS OF FACT

1. Initiative Petition S-01-2024

Ms. Feldman filed the Petition with the Secretary on January 5, 2024. The Petition proposes to amend the Nevada Revised Statutes to include a new chapter 604D entitled the "Preventing Predatory Payday and Other Loans Act." Ms. Feldman later filed a second Initiative Petition, S-03-2024, on January 24, 2024, which proposes to enact the same "Preventing Predatory Payday and Other Loans Act," but omits provisions included in the first Petition, S-01-2024. This Order addresses only the first Petition.

The first Petition's Description of Effect, which is required under NRS 295.009(1)(b), states as follows:

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.
>
> Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

The Petition consists of 18 Sections and nearly 18 pages of new text to be added to the Nevada Revised Statutes, as well as proposed deletions of, and amendments to, existing statutes. The existing statutes that the Petition proposes to amend or delete relate to numerous other statutory chapters that address topics including deferred deposit loans, high-interest loans, retail installment transactions, banking, writs of execution, garnishment, property exempt from

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

judgment collection, and other matters. Generally, the Petition's "loan"-related provisions and related penalties against "payday lender[s] or other person[s]" are proposed in Sections 1 through 16. The wage garnishment provisions of the proposed "Preventing Predatory Payday and Other Loans Act" are set forth in Sections 17 through 18.

The Petition's proposed Act, at Section 5(1)-(2), defines the term "Loan" to include a variety of financial transactions involving money or credit provided to a consumer, as follows:

> ***Loan defined.***
>
> ***1. For purposes of this chapter, "loan" means and includes:***
>
> ***(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;***
>
> ***(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and***
>
> ***(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.***
>
> ***2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.***

The Petition, at Section 9, proposes a "maximum interest rate" of 36% per year to apply to "any loan or other transaction subject to" the proposed Act. In Sections 10 through 13, the Petition proposes various penalties for exceeding the proposed maximum rate or otherwise violating the provisions of the proposed Act. The Petition, at Section 14, also would constitute a declaration for the State of Nevada to "opt out" of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980," Pub. L. 96-221, or "DIDMCA." The Petition further proposes, at Section

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

15, a prospective application of Section 9's maximum interest rate, purporting to apply the maximum rate to "entities licensed…to provide earned wage access services," as defined in Senate Bill 290 (Nev. Leg. 2023), beginning on January 1, 2030.

In addition to its various "payday loan"-related provisions and civil penalties, the Petition's Section 17 proposes to eliminate NRS 21.105(1)(a)-(n), which exempts certain sources of income of a judgment debtor from garnishment, up to $2,000. This Section of the Petition also eliminates existing statutory categories of sources of income that NRS 21.105(1)(a)-(n) protects from garnishment, and instead proposes a single, greater amount of $5,000 that is not subject to execution. The Petition also revises and restricts existing provisions under NRS 21.105(6) that afford immunity for financial institutions that make a commercially reasonable effort to determine whether money in a judgment debtor's account is exempt from execution.

Finally, Section 18 of the Petition proposes to amend NRS 21.090(1)(g), which exempts from execution certain amounts of a judgment debtor's disposable earnings for any workweek, on a sliding scale depending on the amount the judgment debtor earns during that period. The Petition eliminates NRS 21.090(1)(g)'s existing protections and replaces them with higher thresholds, such that more of a judgment debtor's disposable earnings would be exempt from garnishment. The Petition also redefines NRS 21.090(1)(g)(2)'s definition of "earnings" to specify that "[c]ompensation paid or payable for personal services is earnings regardless of whether the judgment debtor is classified as an independent contractor or an employee." Finally, the Petition proposes to adjust its revised exemption amounts for inflation pursuant to the Consumer Price Index, and directs the Nevada Department of Business and Industry to publish the annual adjustment each year, "round[ing] up" each annual adjustment "to the next $10."

2. Procedural History

On January 26, 2024, Plaintiffs Nevadans For Financial Choice and Christina Bauer (collectively, "Nevadans for Financial Choice" or "NFFC") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative Petition S-01-2024, pursuant to NRS 295.061, and submitted a Brief in Support of the Complaint. Subsequently, on February 14,

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

NFFC filed a First Amended Complaint timely adding Initiative Petition S-03-2024 to their challenge.

On January 29, 2024, Plaintiff DailyPay, Inc. ("DailyPay") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On January 29, 2024, Plaintiffs Preferred Capital Funding - Nevada, LLC and Alliance For Responsible Consumer Legal Funding (collectively, "Preferred Capital") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On February 13, 2024, Plaintiffs ActiveHours, Inc. and Stacy Press (collectively, "ActiveHours") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative Petition S-03-2024, pursuant to NRS 295.061.

On or about February 22, 2024, the parties stipulated to, and the Court ordered, that the filed suits be consolidated into one action to make the matter more efficient in terms of judicial economy, the intervention of Ms. Feldman and Stop Predatory Lending NV, a Nevada nonprofit corporation, as appropriate, and a briefing schedule. Ms. Feldman and Stop Predatory Lending NV are collectively referred to herein as the "Proponents." After briefing, the Court held hearing on the consolidated matters on March 22, 2024.

B. CONCLUSIONS OF LAW

The Petition Violates Nevada's Single-Subject Rule.

NRS 295.009(1) provides that "[e]ach petition for initiative or referendum must... [e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto." NRS 295.009(2) further provides that an initiative "embraces but one subject and matters necessarily connected therewith and pertaining thereto, if the parts of the proposed initiative... are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative[.]" NRS 295.009(2). NRS 295.061 authorizes a challenge to a proposed initiative when it violates the single-subject rule set forth in NRS 295.009(1)-(2). Specifically, "whether an initiative or

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

referendum embraces but one subject and matters necessarily connected therewith and pertaining thereto...may be challenged by filing a complaint in the First Judicial District Court." NRS 295.061(1).

Nevada's single-subject requirement "facilitates the initiative process by preventing petition drafters from circulating confusing petitions that address multiple subjects." *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006). Thus, "the single-subject requirement helps both in promoting informed decisions and in preventing the enactment of unpopular provisions by attaching them to more attractive proposals or concealing them in lengthy, complex initiatives (*i.e.*, logrolling)." *Las Vegas Taxpayer Accountability Comte. v. City Council of City of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009). After all, unlike other "means of enacting law, the initiative process typically does not allow for unput in drafting proposed laws." *Id.*, 125 Nev. at 177 n. 6, 208 P.3d at 437 n.6 (citation omitted).

When considering a single-subject challenge, this Court must first determine the initiative's purpose or subject, "and then determine if each provision is functionally related and germane to each other and the initiative's purpose or subject." *Helton v. Nev. Voters First PAC*, 138 Nev. Adv. Op. 45, 512, P.3d 309, 314 (2022). "To determine the initiative's purpose or subject, this court looks to its textual language and the proponents' arguments." *Las Vegas Taxpayer*, 125 Nev. at 180, 208 P.3d at 439. Courts also will look at whether the description of effect articulates an overarching purpose and explains how provisions relate to a single subject. *Id.* The proponents of an initiative "may not circumvent the single-subject rule by phrasing the proposed law's purpose or object in terms of 'excessive generality,'" nor "'join[ ] disparate provisions which appear germane only to topics of excessive generality[.]'" *Id.* (quoting *Harbor v. Deukmejian*, 240 Cal.Rptr. 569, 742 P.2d 1290, 1303 (1987)).

The Petition violates Nevada's single-subject rule in several respects. First, by its own description, the Petition embraces at least two disparate subjects in purporting to "establish[ ] maximum interest rates charged to consumers, and shield[ ] more of people's savings and earnings from garnishment than under current law." The Petition's proposed changes to NRS Chapter 21, which contains Nevada's statutes on garnishment, execution, and exemptions from judgments,

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

have no nexus to the Petition's other putative purpose of imposing maximum interest rates on "loans" and other transactions. Imposing a maximum interest rate on lenders and others is not "functionally related and germane to" shielding a judgment debtor's savings and earnings from garnishment. Nor is shielding a judgment debtor's savings from garnishment a matter that is "necessarily connected" with and pertaining to "Preventing Predatory Payday and Other Loans." The shielding of debtor assets in the collection of judgments applies beyond those arising out of the proposed "Preventing Predatory Payday and Other Loans Act." By the Petition's own text, it is clear that the Proponents have improperly joined multiple discrete and disparate subjects together into a single Petition, in violation of NRS 295.009's single-subject rule.

Second, the Proponents' arguments in favor of the Petition demonstrate that the Petition embraces more than a single subject, even when including matters necessarily connected therewith and pertaining thereto. In their Omnibus Response Brief, Proponents argue that the common policy goal behind the Petition "is to establish standards by which to regulate usurious behavior by lenders and others in Nevada," noting "the common usage of 'usury' is the lending of money at unconscionable or exorbitant rates of interest." Omnibus Resp., at 1. But the Petition's proposed changes concerning garnishment, writs of execution, the definition of "earnings" for purposes of independent contractors versus employees, and other proposed changes, have nothing to do with "the lending of money at unconscionable or exorbitant rates of interest." A debtor may become a judgment debtor for reasons unrelated to "Predatory Payday and Other Loans." A judgment debtor may be subject to garnishment for any number of reasons, including for unpaid debts that may or may not be subject to any interest rate at all, much less any purportedly "unconscionable" interest rate. To the extent the Proponents claim the Petition's overarching purpose is to prevent "the lending of money at unconscionable or exorbitant rates of interest," the Proponents' argument demonstrates that the Petition embraces multiple subjects, contrary to NRS 295.009's single-subject requirement.

Further, to the extent the Proponents argue the Petition's disparate components are meant "to achieve a single goal: ensuring Nevadans have better debt protections," the Proponents have articulated an excessively generalized subject matter that, if adopted, would effectively nullify the

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

single-subject rule. *Las Vegas Taxpayer Accountability Committee*, 125 Nev. 165, 181, 208 P.3d 429, 440 (determining that "the purported single subject articulated in appellants' opening brief, 'voter approval of use of taxpayer funds to finance large new development projects,'" was "an excessively general subject that cannot meet NRS 295.009's requirement"). While the policy goal of ensuring Nevadans have better debt protections may be laudable, those protections are distinct from proposed laws affecting the act of lending (as the Petition asserts to do). Additionally, the general scope of that goal could plausibly relate to any proposal on some level. Were such an excessively generalized subject permissible, there would be no need for the single-subject rule. As statutes are not created to be superfluous, though, the single-subject rule within NRS 295.009 must be given effect. To satisfy the single-subject rule, NRS 295.009(2) more particularly requires "the parts of the proposed initiative or referendum" to be "functionally related and germane ***to each other*** in a way that provides sufficient notice of the general subject of, and of the interest likely to be affected by, the proposed initiative or referendum." (Emphasis added).

The Petition utterly fails to meet NRS 295.009's defined standard. Accordingly, the Court finds that the Petition violates NRS 295.009's single-subject rule and cannot be circulated.[1]

///

///

///

///

///

///

///

///

///

///

[1] The Court has also considered the remaining arguments raised by Plaintiffs, including challenges to the Petition's description of effect, the Petition's purported fiscal impacts, and the Petition's arguable referendum on Senate Bill 290's earned wage access provisions. In light of this Court's conclusion that the Petition violates the single-subject rule, the Court need not reach the Plaintiffs' remaining arguments. *Miller v. Burk*, 124 Nev. 579, 588-89 (2008) (the Court need not address issues that are unnecessary to resolve the case at hand); *Nuleaf CLV Dispensary, LLC v. State Dep't of Health & Hum. Servs., Div. of Pub. & Behav. Health*, 134 Nev. 129, 136 n.2, 414 P.3d 305, 311 n.2 (2018).

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

ORDER

Based on the foregoing findings of fact and conclusions of law:

1. **IT IS ORDERED** and declared that Initiative Petition S-01-2024 violates Nevada's single subject rule under NRS 295.009.

2. **IT IS FURTHER ORDERED** and declared that the Nevada Secretary of State is enjoined from permitting Initiative Petition S-1-2024 from being circulated for signatures.

Dated this 12th day of April, 2024.

William A. Maddox

District Court Judge

Respectfully Submitted by:

/s/ Matthew Morris

J. Malcolm DeVoy (11950)
Matthew Morris (15068)
5441 Kietzke Lane, 2nd Floor
Reno, NV 89511
jmdevoy@hollandhart.com
mcmorris@hollandhart.com
Attorneys for Plaintiffs DailyPay, Inc.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

BRADLEY S. SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)
BRAVO SCHRAGER LLP
6675 South Tenaya Way, Suite 200
Las Vegas, Nevada 89113
Tele.: (702) 996-1724
Email: bradley@bravoschrager.com
Email: daniel@bravoschrager.com
Attorneys for Kate Feldman and Intervenor-Defendant

RECD & FILED
2024 APR 16 AM 11:25
WILLIAM SCOTT HOEN
CLERK
BY
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an individual, Plaintiffs, vs. KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State, Defendants,	Lead Case No.: 24 OC 00018 1B Dept. No.: II Consolidated with
DAILYPAY, INC., a Delaware Corporation, Plaintiff, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendant, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and KATE FELDMAN, an individual, Intervenor-Defendants.	Case No.: 24 OC 00021 1B Dept. No.: II

BRAVO SCHRAGER LLP

PREFERRED CAPITAL FUNDING-NEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation, Plaintiffs, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual, Defendants, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., Intervenor-Defendant.	Case No.: 24 OC 00023 1B Dept. No.: I
ACTIVEHOURS, INC., a Delaware corporation; STACY PRESS, an individual, Plaintiffs, vs. KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendants.	Case No.: 24 OC 00029 1B Dept. No.: I

NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER

NOTICE IS HEREBY GIVEN that the FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER DENYING PLAINTIFFS' LEGAL CHALLENGE TO INITIATIVE PETITION S-03-2024 was entered in the above-

captioned matter on the 15th of April, 2024. A true and correct copy is attached hereto as Exhibit 1.

AFFIRMATION

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

DATED this 15th day of February, 2024.

BRAVO SCHRAGER LLP

By: _____

BRADLEY S. SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)
6675 South Tenaya Way, Suite 200
Las Vegas, Nevada 89113
Tele.: (702) 996-1724
Email: bradley@bravoschrager.com
Email: daniel@bravoschrager.com

Attorneys for Kate Feldman and Intervenor-Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February, 2024, I served the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER** via electronic mail, per the February 22, 2024, Stipulation and Scheduling Order of the Court, as follows:

Laena St Jules, Esq.
OFFICE OF THE ATTORNEY GENERAL
LStJules@ag.nv.gov
Attorneys for Defendant, Francisco V. Aguilar

Todd L. Bice, Esq.
Jordan T. Smith, Esq.
Daniel R. Brady, Esq.
PISANELLI BICE PLLC
TLB@pisanellibice.com
JTS@pisanellibice.com
DRB@pisanellibice.com
Attorneys for Plaintiffs Nevadans for Financial Choice and Christina Bauer

J. Malcolm DeVoy, Esq.
Matthew Morris, Esq.
HOLLAND & HART LLP
jmdevoy@hollandhart.com
mcmorris@hollandhart.com
Counsel for Plaintiff DailyPay, Inc.

Joshua H. Reisman, Esq.
Elizabeth M. Sorokac, Esq.
Michael R. Kalish, Esq.
REISMAN SOROKAC
jreisman@rsnvlaw.com
esorokac@rsnvlaw.com
mkalish@rsnvlaw.com
Attorneys for Plaintiffs Preferred Capital Funding- Nevada, LLC, and Alliance For Responsible Consumer Legal Funding

Severin A. Carlson, Esq.
Sihomara L. Graves, Esq.
KAEMPFER CROWELL
scarlson@kcnvlaw.com
sgraves@kcnvlaw.com
Attorneys for Plaintiffs Activehours, Inc. and Stacy Press

Billie Shadron
Judicial Assistant
First Judicial District Court, Dept. II
bshadron@carson.org

Dannielle Fresquez, an Employee of
BRAVO SCHRAGER LLP

INDEX OF EXHIBITS

Exhibit No.	Document Title	No. of Pages
1	Findings of Fact and Conclusions of Law And Order Denying Plaintiffs' Legal Challenge to Initiative Petition S-03-2024	10

EXHIBIT 1

EXHIBIT 1

REC'D & FILED
Jan 15, 2024
Date
WILLIAM SCOTT HOEN
CLERK
By Deputy

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an individual, Plaintiffs, vs. KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State, Defendants.	Lead Case No.: 24 OC 00018 1B Dept. No.: II
DAILYPAY, INC., a Delaware Corporation, Plaintiff, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendant, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and KATE FELDMAN, an individual, Intervenor-Defendants.	Consolidated with Case No.: 24 OC 00021 1B Dept. No.: II

BRAVO SCHRAGER LLP

PREFERRED CAPITAL FUNDING-NEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation, Plaintiffs, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual, Defendants, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., Intervenor-Defendant.	Case No.: 24 OC 00023 1B Dept. No.: I
ACTIVEHOURS, INC., a Delaware corporation; STACY PRESS, an individual, Plaintiffs, vs. KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendants.	Case No.: 24 OC 00029 1B Dept. No.: I

FILED IN ERROR

BY

FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER DENYING PLAINTIFFS' LEGAL CHALLENGE TO INITIATIVE PETITION S-03-2024

This matter came before this Court following four complaints, filed by four different sets of plaintiffs, pursuant to NRS 295.061, challenging the legal sufficiency of Initiative Petition S-03-2024 (the "Petition"). On January 24, 2024, Kate Feldman filed Initiative Petition S-03-2024 with the Nevada Secretary of State (the

"Secretary").

The Court, having reviewed the papers and pleadings on file, considered the matter, being fully advised, and good cause appearing, finds, concludes, and orders as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW[1]

A. FINDINGS OF FACT

1. Initiative Petition S-03-2024

On January 24, 2024, Kate Feldman, on behalf of Stop Predatory Lending NV, filed the Petition with the Secretary. The Petition seeks to amend the Nevada Revised Statutes by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act.

The Petition includes a description of effect as required by NRS 295.009(1)(b), which reads, in full:

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

2. Procedural History

On January 26, 2024, Plaintiffs Nevadans For Financial Choice and Christina Bauer (collectively, "Nevadans for Financial Choice" or "NFFC") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative

[1] Any findings of fact which are more appropriately considered conclusions of law shall be treated as such, and any conclusions of law which are more appropriately considered findings of fact shall be treated as such.

Petition S-01-2024, pursuant to NRS 295.061, and a Brief in Support of the Complaint. Subsequently, on February 14, Plaintiffs Nevadans for Financial Choice filed a First Amended Complaint timely adding Initiative Petition S-03-2024 to their challenge.

On January 29, Plaintiff DailyPay, Inc. ("DailyPay") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On January 29, Plaintiffs Preferred Capital Funding - Nevada, LLC and Alliance For Responsible Consumer Legal Funding (collectively, "Preferred Capital") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On February 13, Plaintiffs ActiveHours, Inc. and Stacy Press (collectively, "ActiveHours") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative Petition S-03-2024, pursuant to NRS 295.061.

On or about February 22, the parties stipulated to, and the Court ordered, that the filed suits be consolidated into one action to make the matter more efficient in terms of judicial economy, and the parties agreed to a briefing schedule. After briefing, the Court held hearing on the consolidated matters on March 22, 2024.

B. CONCLUSIONS OF LAW

1. The Petition Does Not Violate Nevada's Single Subject Rule

NRS 295.009(1) provides that "[e]ach petition for initiative or referendum must ... [e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto." Subsection 2 of that statute explains that an initiative "embraces but one subject and matters necessarily connected therewith and pertaining thereto, if the parts of the proposed initiative ... are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative." NRS 295.009(2).

The single-subject requirement "facilitates the initiative process by preventing petition drafters from circulating confusing petitions that address multiple subjects." *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006). Thus, "the single-subject requirement helps both in promoting informed decisions and in preventing the enactment of unpopular provisions by attaching them to more attractive proposals or concealing them in lengthy, complex initiatives (i.e., logrolling)." *Las Vegas Taxpayer Accountability Comte. v. City Council of City of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009).

In considering single-subject challenges, courts must first determine the initiative's purpose or subject. "To determine the initiative's purpose or subject, this court looks to its textual language and the proponents' arguments." *Las Vegas Taxpayer*, 125 Nev. at 180, 208 P.3d at 439. Courts also will look at whether the description of effect articulates an overarching purpose and explains how provisions relate to a single subject. *Id.*

Furthermore, and most recently, in *Helton v. Nevada Voters First PAC*, 138 Nev. Adv. Op. 45, 512 P.3d 309 (2022), the Nevada Supreme Court stated that "even if an initiative petition proposes more than one change, each of which could be brought in separate initiative petitions, the proper consideration is whether the changes are functionally related and germane to each other and the petition's subject." *Id.*, 512 P.3d at 314. The Court found that "(b)oth categories of changes proposed in the ... initiative concern the election process in Nevada and more specifically how candidates for the specifically defined partisan offices are presented to voters and elected." *Id.*, 512 P.3d at 314-15.

In this case, the Court finds that the primary purpose of the Petition is to limit interest rates on consumer loan transactions, and that all components of the Petition are functionally related and germane to that purpose. The Court finds that the Petition limits consumer interest rates on the transactions it defines as loans to 36% annually. Each of the provisions of the Petition either establish that limit, make

conforming or ancillary changes to other statutes, or—in the case of the Sections 10 through 14, provide enforcement mechanisms necessary and germane to the operation of the Petition's purpose. Further, the Court finds that the Petition's text, its description, and the arguments of the Proponents in briefing and at hearing of effect confirm the Petition's primary purpose. Therefore, this Court finds that Initiative Petition S-03-2024 does not violate NRS 295.009(1)(a)'s single-subject requirement.

2. The Petition's Descriptions Of Effect Is Legally Adequate

Under NRS 295.009(1)(b), every initiative must "[s]et forth, in not more than 200 words, a description of the effect of the initiative or referendum if the initiative or referendum is approved by the voters." The purpose of the description is to "prevent voter confusion and promote informed decisions." *Nevadans for Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006). Thus, "[t]he importance of the description of effect cannot be minimized, as it is what the voters see when deciding whether to even sign a petition." *Coal. for Nev.'s Future v. RIP Com. Tax, Inc.*, No. 69501, 2016 WL 2842925 at *2 (2016) (unpublished disposition) (citing *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013)). "[T]he description of effect may hold even more impact with respect to a referendum, since merely gathering sufficient signatures to place a referendum on the ballot guarantees a change to the law regardless of the election's outcome." *Id.* (citing Nev. Const. art. 19, § 1(3) (providing that, if the voters approve the referendum, the statute "shall stand as the law of the state and shall not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people," and if the voters disapprove the statute or resolution, it is rendered void)).

The Nevada Supreme Court has repeatedly held that "a description of effect must be straightforward, succinct, and non-argumentative, and it must not be deceptive or misleading." *Educ. Initiative PAC*, 129 Nev. at 42, 293 P.3d at 879 (internal quotation marks and citation omitted). It must also "explain the[]

ramifications of the proposed amendment" in order to allow voters to make an informed decision. *Nev. Judges Ass'n v. Lau*, 112 Nev. 51, 59, 910 P.2d 898, 903 (1996).

This Court finds that the Petition's description of effect meets the requirements of Nevada law. The description of effect is straightforward, succinct, under 200 words, and there is no basis for a finding of any argumentative language. The description proceeds, succinctly and directly, through (1) a general statement of the Petition's purpose; (2) a neutral and accurate statement of current law regarding interest rate limitations; (3) a description of the transactions to which the proposed cap would apply; and (4) a statement of enforcement aspects of the proposal. The Court finds that Plaintiffs fail to meet the burden of showing that the Petition's description of effect does not comply with NRS 295.009. Therefore, the Court finds the description of effect for Initiative Petition S-03-2024 satisfies Nevada's NRS 295.009 requirement as the plain language of the description is straightforward, succinct, and non-argumentative.

3. The Petition Does Not Contain An Unfunded Mandate

Article 19, section 2(1) of the Nevada Constitution provides that the initiative process is "subject to the limitations of' Article 19, Section 6, which "does not permit the proposal of any statute or statutory amendment which makes an appropriation or otherwise requires the expenditure of money, unless such statute or amendment also imposes a sufficient tax, not prohibited by the constitution, or otherwise constitutionally provides for raising the necessary revenue." As the Nevada Supreme Court holds, Section 6 applies to all proposed initiatives. *Rogers v. Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036 (2001). The primary purpose behind this requirement is to ensure that no initiative is presented to the voters without funding provisions when the initiative requires an appropriation or expenditure.

"[A]n appropriation is the setting aside of funds, and an expenditure of money is the payment of funds." *Rogers v. Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036

(2001). "A necessary appropriation or expenditure in *any* set amount or percentage is a new requirement that otherwise does not exist." *Id.*, 117 Nev. at 176. "[A]n initiative makes an appropriation or expenditure when it leaves budgeting officials no discretion in appropriating or expending the money mandated by the initiative—the budgeting official must approve the appropriation or expenditure, regardless of any other financial considerations." *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 890, 141 P.3d 1224, 1233 (2006).

Here, this Court finds that plaintiffs do not provide any evidence regarding the expected unfunded expenditures or costs they insist come along with the Petition, but rather argue that increased regulation must somehow necessarily increase the workload of state personnel, and therefore will increase state expenditures in some form. While the Court is not unsympathetic to that argument, Nevada Supreme Court case law authority interpreting Article 19, Section 6 does not support invalidating a proposed ballot measure on those grounds. This Petition does not require specific enforcement procedures, creates no additional regulatory bodies or agencies, and Plaintiffs cannot point to specific instances of mandatory, non-discretionary appropriations that would have to be made should this Petition become law. Therefore, the Court finds that Plaintiffs fail to meet the burden of showing that the Petition violates Article 19, Section 6 of the Nevada Constitution.

4. The Petition Does Not Violate Article 19, Section 3

Under Article 19, Section 3 of the Nevada Constitution, proponents must "include the full text of the measure proposed" with their initiative petition. Nev. Const. art. 19, § 3. Plaintiffs DailyPay and Nevadans for Financial Choice make "full-text" arguments against the Petition. This Court rejects plaintiffs' arguments and finds that the Petition contains every provision that is proposed to be circulated for signatures and to considered by the electorate, and that therefore there is no violation of Article 19, Section 3.

Furthermore, this Court rejects the other various challenges to the Petition's

legal sufficiency.[2]

ORDER

Based on the foregoing findings of fact and conclusions of law:

1. **IT IS THEREFORE ORDERED** and declared that Initiative Petition S-03-2024 is legally sufficient.

2. **IT IS FURTHER ORDERED** and declared that Initiative Petition S-03-2024 does not violate Nevada's single subject rule.

3. **IT IS FURTHER ORDERED** and declared that Initiative Petition S-03-2024's description of effect meets the requirements of Nevada law.

4. **IT IS FURTHER ORDERED** and declared that Initiative Petition S-03-2024 does not contain an unfunded mandate.

///

///

///

///

///

///

///

///

///

///

///

[2] To the extent other arguments were raised by any Plaintiffs, like DailyPay's contention that the Petition is a referendum instead of an initiative, the Court has considered them and finds them without merit. The Petition does not change a single word of SB 290 (2023). Further, the Petition makes numerous amendments to Nevada statutes, and creates new statutory sections; therefore the Petition is a statutory initiative pursuant to Article 19, Section 2(3).

5. **IT IS FURTHER ORDERED** that plaintiffs' challenges to Initiative Petition S-03-2023 are rejected, and Plaintiffs' complaints are dismissed with prejudice as to their challenge to Initiative Petition S-03-2023.

Dated this 12th day of April, 2024.

William A. Maddox
District Court Judge

Respectfully Submitted by:

/s/ Bradley S. Schrager
BRADLEY S. SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)
BRAVO SCHRAGER LLP
6675 South Tenaya Way, Suite 200
Las Vegas, Nevada 89113

Attorneys for Kate Feldman and Stop Predatory Lending NV

REC'D & FILED
2024 APR 17 PM 3:17
WILLIAM SCOTT HOEN
CLERK
BY_____
DEPUTY

BRADLEY S. SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)
BRAVO SCHRAGER LLP
6675 South Tenaya Way, Suite 200
Las Vegas, Nevada 89113
Tele.: (702) 996-1724
Email: bradley@bravoschrager.com
Email: daniel@bravoschrager.com
Attorneys for Kate Feldman and Intervenor-Defendant

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an individual, Plaintiffs, vs. KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State, Defendants,	Lead Case No.: 24 OC 00018 1B Dept. No.: II **NOTICE OF APPEAL** Consolidated with
DAILYPAY, INC., a Delaware Corporation, Plaintiff, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendant, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and KATE FELDMAN, an individual, Intervenor-Defendants.	Case No.: 24 OC 00021 1B Dept. No.: II

BRAVO SCHRAGER LLP

PREFERRED CAPITAL FUNDING-NEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation, Plaintiffs, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual, Defendants, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., Intervenor-Defendant.	Case No.: 24 OC 00023 1B Dept. No.: I
ACTIVEHOURS, INC., a Delaware corporation; STACY PRESS, an individual, Plaintiffs, vs. KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendants.	Case No.: 24 OC 00029 1B Dept. No.: I

NOTICE OF APPEAL

Defendant KATE FELDMAN and Intervenor-Defendant STOP PREDATORY LENDING NV, by and through their undersigned counsel, and pursuant to NRS 41.670(4), hereby appeals to the Supreme Court of the State of Nevada the district court's FINDINGS OF FACT, CONCLUSIONS OF LAW, AND

ORDER GRANTING PLAINTIFFS' LEGAL CHALLENGES TO INITIATIVE PETITION S-01-2024 entered on April 15, 2024. A true and correct copy of the district court's order is attached hereto as Exhibit A.

AFFIRMATION

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

DATED this 16th day of April, 2024.

BRAVO SCHRAGER LLP

By: _____

BRADLEY S. SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)
6675 South Tenaya Way, Suite 200
Las Vegas, Nevada 89113
Tele.: (702) 996-1724
Email: bradley@bravoschrager.com
Email: daniel@bravoschrager.com

Attorneys for Kate Feldman and Intervenor-Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of April, 2024, I served the foregoing **NOTICE OF APPEAL** via electronic mail, per the February 22, 2024, Stipulation and Scheduling Order of the Court, as follows:

Laena St Jules, Esq.
OFFICE OF THE ATTORNEY GENERAL
LStJules@ag.nv.gov
Attorneys for Defendant, Francisco V. Aguilar

Todd L. Bice, Esq.
Jordan T. Smith, Esq.
Daniel R. Brady, Esq.
PISANELLI BICE PLLC
TLB@pisanellibice.com
JTS@pisanellibice.com
DRB@pisanellibice.com
Attorneys for Plaintiffs Nevadans for Financial Choice and Christina Bauer

J. Malcolm DeVoy, Esq.
Matthew Morris, Esq.
HOLLAND & HART LLP
jmdevoy@hollandhart.com
mcmorris@hollandhart.com
Counsel for Plaintiff DailyPay, Inc.

Joshua H. Reisman, Esq.
Elizabeth M. Sorokac, Esq.
Michael R. Kalish, Esq.
REISMAN SOROKAC
jreisman@rsnvlaw.com
esorokac@rsnvlaw.com
mkalish@rsnvlaw.com
Attorneys for Plaintiffs Preferred Capital Funding- Nevada, LLC, and Alliance For Responsible Consumer Legal Funding

Severin A. Carlson, Esq.
Sihomara L. Graves, Esq.
KAEMPFER CROWELL
scarlson@kcnvlaw.com
sgraves@kcnvlaw.com
Attorneys for Plaintiffs Activehours, Inc. and Stacy Press

Billie Shadron
Judicial Assistant
First Judicial District Court, Dept. II
bshadron@carson.org

By: Dannielle Fresquez
Dannielle Fresquez, an Employee of
BRAVO SCHRAGER LLP

INDEX OF EXHIBITS

Exhibit No.	Document Title	No. of Pages
A	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' LEGAL CHALLENGES TO INITIATIVE PETITION S-01-2024	10

EXHIBIT A

EXHIBIT A

REC'D & FILED
April 15, 2024
Date
WILLIAM SCOTT HOEN
CLERK
By _____ Deputy

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

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an individual,

Plaintiffs,

vs.

KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State,

Defendants.

Lead Case No. 24-OC-00021B

Dept. No. II

DAILYPAY, INC., a Delaware Corporation,

Plaintiff,

vs.

FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE,

Defendant,

and

STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and KATE FELDMAN, an individual,

Intervenor-Defendants.

Consolidated with

Case No.: 24 OC 00021 1B
Dept. No.: II

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

PREFERRED CAPITAL FUNDING NEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation,

Plaintiffs,

vs.

FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual,

Defendants,

and

STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.,

Intervenor-Defendant.

Case No.: 24 OC 00023 1B
Dept. No.: I

ACTIVEHOURS, INC., a Delaware corporation; STACY PRESS, an individual,

Plaintiffs,

vs.

KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE,

Defendants.

Case No.: 24 OC 00029 1B
Dept. No.: I

[PROPOSED] FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' LEGAL CHALLENGES TO INITIATIVE PETITION S-01-2024

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

This matter came before this Court following four complaints, filed by four different sets of plaintiffs, challenging the legal sufficiency and procedural defects of Initiative Petition S-01-2024 (the "Petition"), under NRS 295.061. Intervenor-Defendant Kate Feldman ("Ms. Feldman") filed the Petition on January 5, 2024, with Defendant Nevada Secretary of State (the "Secretary"). On March 22, 2024, the Court held a hearing on the several challenges to the Petition. The Court, having reviewed the papers and pleadings on file, having considered the oral arguments presented by the parties, and being fully advised and good cause appearing, finds, concludes, and orders as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. FINDINGS OF FACT

1. Initiative Petition S-01-2024

Ms. Feldman filed the Petition with the Secretary on January 5, 2024. The Petition proposes to amend the Nevada Revised Statutes to include a new chapter 604D entitled the "Preventing Predatory Payday and Other Loans Act." Ms. Feldman later filed a second Initiative Petition, S-03-2024, on January 24, 2024, which proposes to enact the same "Preventing Predatory Payday and Other Loans Act," but omits provisions included in the first Petition, S-01-2024. This Order addresses only the first Petition.

The first Petition's Description of Effect, which is required under NRS 295.009(1)(b), states as follows:

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.
>
> Additionally, the initiative automatically protects $5,000 of savings in a personal bank account (up from $400 now), and $850 of wages in any workweek (up from $369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

The Petition consists of 18 Sections and nearly 18 pages of new text to be added to the Nevada Revised Statutes, as well as proposed deletions of, and amendments to, existing statutes. The existing statutes that the Petition proposes to amend or delete relate to numerous other statutory chapters that address topics including deferred deposit loans, high-interest loans, retail installment transactions, banking, writs of execution, garnishment, property exempt from

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

judgment collection, and other matters. Generally, the Petition's "loan"-related provisions and related penalties against "payday lender[s] or other person[s]" are proposed in Sections 1 through 16. The wage garnishment provisions of the proposed "Preventing Predatory Payday and Other Loans Act" are set forth in Sections 17 through 18.

The Petition's proposed Act, at Section 5(1)-(2), defines the term "Loan" to include a variety of financial transactions involving money or credit provided to a consumer, as follows:

> ***Loan defined.***
>
> ***1. For purposes of this chapter, "loan" means and includes:***
>
> ***(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;***
>
> ***(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and***
>
> ***(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.***
>
> ***2. Any transaction that satisfies any definition in this section is a "loan" for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.***

The Petition, at Section 9, proposes a "maximum interest rate" of 36% per year to apply to "any loan or other transaction subject to" the proposed Act. In Sections 10 through 13, the Petition proposes various penalties for exceeding the proposed maximum rate or otherwise violating the provisions of the proposed Act. The Petition, at Section 14, also would constitute a declaration for the State of Nevada to "opt out" of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980," Pub. L. 96-221, or "DIDMCA." The Petition further proposes, at Section

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

15, a prospective application of Section 9's maximum interest rate, purporting to apply the maximum rate to "entities licensed…to provide earned wage access services," as defined in Senate Bill 290 (Nev. Leg. 2023), beginning on January 1, 2030.

In addition to its various "payday loan"-related provisions and civil penalties, the Petition's Section 17 proposes to eliminate NRS 21.105(1)(a)-(n), which exempts certain sources of income of a judgment debtor from garnishment, up to $2,000. This Section of the Petition also eliminates existing statutory categories of sources of income that NRS 21.105(1)(a)-(n) protects from garnishment, and instead proposes a single, greater amount of $5,000 that is not subject to execution. The Petition also revises and restricts existing provisions under NRS 21.105(6) that afford immunity for financial institutions that make a commercially reasonable effort to determine whether money in a judgment debtor's account is exempt from execution.

Finally, Section 18 of the Petition proposes to amend NRS 21.090(1)(g), which exempts from execution certain amounts of a judgment debtor's disposable earnings for any workweek, on a sliding scale depending on the amount the judgment debtor earns during that period. The Petition eliminates NRS 21.090(1)(g)'s existing protections and replaces them with higher thresholds, such that more of a judgment debtor's disposable earnings would be exempt from garnishment. The Petition also redefines NRS 21.090(1)(g)(2)'s definition of "earnings" to specify that "[c]ompensation paid or payable for personal services is earnings regardless of whether the judgment debtor is classified as an independent contractor or an employee." Finally, the Petition proposes to adjust its revised exemption amounts for inflation pursuant to the Consumer Price Index, and directs the Nevada Department of Business and Industry to publish the annual adjustment each year, "round[ing] up" each annual adjustment "to the next $10."

2. Procedural History

On January 26, 2024, Plaintiffs Nevadans For Financial Choice and Christina Bauer (collectively, "Nevadans for Financial Choice" or "NFFC") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative Petition S-01-2024, pursuant to NRS 295.061, and submitted a Brief in Support of the Complaint. Subsequently, on February 14,

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

NFFC filed a First Amended Complaint timely adding Initiative Petition S-03-2024 to their challenge.

On January 29, 2024, Plaintiff DailyPay, Inc. ("DailyPay") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On January 29, 2024, Plaintiffs Preferred Capital Funding - Nevada, LLC and Alliance For Responsible Consumer Legal Funding (collectively, "Preferred Capital") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On February 13, 2024, Plaintiffs ActiveHours, Inc. and Stacy Press (collectively, "ActiveHours") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative Petition S-03-2024, pursuant to NRS 295.061.

On or about February 22, 2024, the parties stipulated to, and the Court ordered, that the filed suits be consolidated into one action to make the matter more efficient in terms of judicial economy, the intervention of Ms. Feldman and Stop Predatory Lending NV, a Nevada nonprofit corporation, as appropriate, and a briefing schedule. Ms. Feldman and Stop Predatory Lending NV are collectively referred to herein as the "Proponents." After briefing, the Court held hearing on the consolidated matters on March 22, 2024.

B. CONCLUSIONS OF LAW

The Petition Violates Nevada's Single-Subject Rule.

NRS 295.009(1) provides that "[e]ach petition for initiative or referendum must... [e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto." NRS 295.009(2) further provides that an initiative "embraces but one subject and matters necessarily connected therewith and pertaining thereto, if the parts of the proposed initiative... are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative[.]" NRS 295.009(2). NRS 295.061 authorizes a challenge to a proposed initiative when it violates the single-subject rule set forth in NRS 295.009(1)-(2). Specifically, "whether an initiative or

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

referendum embraces but one subject and matters necessarily connected therewith and pertaining thereto…may be challenged by filing a complaint in the First Judicial District Court." NRS 295.061(1).

Nevada's single-subject requirement "facilitates the initiative process by preventing petition drafters from circulating confusing petitions that address multiple subjects." *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006). Thus, "the single-subject requirement helps both in promoting informed decisions and in preventing the enactment of unpopular provisions by attaching them to more attractive proposals or concealing them in lengthy, complex initiatives (*i.e.*, logrolling)." *Las Vegas Taxpayer Accountability Comte. v. City Council of City of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009). After all, unlike other "means of enacting law, the initiative process typically does not allow for input in drafting proposed laws." *Id.*, 125 Nev. at 177 n. 6, 208 P.3d at 437 n.6 (citation omitted).

When considering a single-subject challenge, this Court must first determine the initiative's purpose or subject, "and then determine if each provision is functionally related and germane to each other and the initiative's purpose or subject." *Helton v. Nev. Voters First PAC*, 138 Nev. Adv. Op. 45, 512, P.3d 309, 314 (2022). "To determine the initiative's purpose or subject, this court looks to its textual language and the proponents' arguments." *Las Vegas Taxpayer*, 125 Nev. at 180, 208 P.3d at 439. Courts also will look at whether the description of effect articulates an overarching purpose and explains how provisions relate to a single subject. *Id.* The proponents of an initiative "may not circumvent the single-subject rule by phrasing the proposed law's purpose or object in terms of 'excessive generality,'" nor "'join[ ] disparate provisions which appear germane only to topics of excessive generality[.]'" *Id.* (quoting *Harbor v. Deukmejian*, 240 Cal.Rptr. 569, 742 P.2d 1290, 1303 (1987)).

The Petition violates Nevada's single-subject rule in several respects. First, by its own description, the Petition embraces at least two disparate subjects in purporting to "establish[ ] maximum interest rates charged to consumers, and shield[ ] more of people's savings and earnings from garnishment than under current law." The Petition's proposed changes to NRS Chapter 21, which contains Nevada's statutes on garnishment, execution, and exemptions from judgments,

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

have no nexus to the Petition's other putative purpose of imposing maximum interest rates on "loans" and other transactions. Imposing a maximum interest rate on lenders and others is not "functionally related and germane to" shielding a judgment debtor's savings and earnings from garnishment. Nor is shielding a judgment debtor's savings from garnishment a matter that is "necessarily connected" with and pertaining to "Preventing Predatory Payday and Other Loans." The shielding of debtor assets in the collection of judgments applies beyond those arising out of the proposed "Preventing Predatory Payday and Other Loans Act." By the Petition's own text, it is clear that the Proponents have improperly joined multiple discrete and disparate subjects together into a single Petition, in violation of NRS 295.009's single-subject rule.

Second, the Proponents' arguments in favor of the Petition demonstrate that the Petition embraces more than a single subject, even when including matters necessarily connected therewith and pertaining thereto. In their Omnibus Response Brief, Proponents argue that the common policy goal behind the Petition "is to establish standards by which to regulate usurious behavior by lenders and others in Nevada," noting "the common usage of 'usury' is the lending of money at unconscionable or exorbitant rates of interest." Omnibus Resp., at 1. But the Petition's proposed changes concerning garnishment, writs of execution, the definition of "earnings" for purposes of independent contractors versus employees, and other proposed changes, have nothing to do with "the lending of money at unconscionable or exorbitant rates of interest." A debtor may become a judgment debtor for reasons unrelated to "Predatory Payday and Other Loans." A judgment debtor may be subject to garnishment for any number of reasons, including for unpaid debts that may or may not be subject to any interest rate at all, much less any purportedly "unconscionable" interest rate. To the extent the Proponents claim the Petition's overarching purpose is to prevent "the lending of money at unconscionable or exorbitant rates of interest," the Proponents' argument demonstrates that the Petition embraces multiple subjects, contrary to NRS 295.009's single-subject requirement.

Further, to the extent the Proponents argue the Petition's disparate components are meant "to achieve a single goal: ensuring Nevadans have better debt protections," the Proponents have articulated an excessively generalized subject matter that, if adopted, would effectively nullify the

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

single-subject rule. *Las Vegas Taxpayer Accountability Committee*, 125 Nev. 165, 181, 208 P.3d 429, 440 (determining that "the purported single subject articulated in appellants' opening brief, 'voter approval of use of taxpayer funds to finance large new development projects,'" was "an excessively general subject that cannot meet NRS 295.009's requirement"). While the policy goal of ensuring Nevadans have better debt protections may be laudable, those protections are distinct from proposed laws affecting the act of lending (as the Petition asserts to do). Additionally, the general scope of that goal could plausibly relate to any proposal on some level. Were such an excessively generalized subject permissible, there would be no need for the single-subject rule. As statutes are not created to be superfluous, though, the single-subject rule within NRS 295.009 must be given effect. To satisfy the single-subject rule, NRS 295.009(2) more particularly requires "the parts of the proposed initiative or referendum" to be "functionally related and germane ***to each other*** in a way that provides sufficient notice of the general subject of, and of the interest likely to be affected by, the proposed initiative or referendum." (Emphasis added).

The Petition utterly fails to meet NRS 295.009's defined standard. Accordingly, the Court finds that the Petition violates NRS 295.009's single-subject rule and cannot be circulated.[1]

///

///

///

///

///

///

///

///

///

[1] The Court has also considered the remaining arguments raised by Plaintiffs, including challenges to the Petition's description of effect, the Petition's purported fiscal impacts, and the Petition's arguable referendum on Senate Bill 290's earned wage access provisions. In light of this Court's conclusion that the Petition violates the single-subject rule, the Court need not reach the Plaintiffs' remaining arguments. *Miller v. Burk*, 124 Nev. 579, 588-89 (2008) (the Court need not address issues that are unnecessary to resolve the case at hand); *Nuleaf CLV Dispensary, LLC v. State Dep't of Health & Hum. Servs., Div. of Pub. & Behav. Health*, 134 Nev. 129, 136 n.2, 414 P.3d 305, 311 n.2 (2018).

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

ORDER

Based on the foregoing findings of fact and conclusions of law:

1. **IT IS ORDERED** and declared that Initiative Petition S-01-2024 violates Nevada's single subject rule under NRS 295.009.

2. **IT IS FURTHER ORDERED** and declared that the Nevada Secretary of State is enjoined from permitting Initiative Petition S-1-2024 from being circulated for signatures.

Dated this 12th day of April, 2024.

William A. Maddox

District Court Judge

Respectfully Submitted by:

/s/ Matthew Morris
J. Malcolm DeVoy (11950)
Matthew Morris (15068)
5441 Kietzke Lane, 2nd Floor
Reno, NV 89511
jmdevoy@hollandhart.com
mcmorris@hollandhart.com
Attorneys for Plaintiffs DailyPay, Inc.

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

88557

RECD & FILED
2024 APR 24 PM 4:06
WILLIAM SCOTT
CLERK
BY
DEPUTY

FILED
APR 26 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

J. Malcolm DeVoy (11950)
Matthew Morris (15068)
HOLLAND & HART LLP
5470 Kietzke Lane, Suite 100
Reno, NV 89511
Tel: (775) 327-3000
Fax: (775) 786-6179
jmdevoy@hollandhart.com
mcmorris@hollandhart.com

Attorneys for Plaintiff DailyPay, Inc.

FIRST JUDICIAL DISTRICT COURT OF NEVADA
IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an individual, Plaintiffs, vs. KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State, Defendants.	Lead Case No. ~~24 OC 00021B~~ 24 OC 00021 1B Dept. No. II **DAILYPAY, INC.'S NOTICE OF APPEAL**
DAILYPAY, INC., a Delaware Corporation, Plaintiff, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendant, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and KATE FELDMAN, an individual, Intervenor-Defendants.	Consolidated with Case No.: 24 OC 00021 1B Dept. No.: II

HOLLAND & HART LLP
5470 KIETZKE LANE
SUITE 1100
RENO, NV 89511

24-14632

Docket 88557 Document 2024-17423

PREFERRED CAPITAL FUNDINGNEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation, Plaintiffs, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual, Defendants, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., Intervenor-Defendant.	Case No.: 24 OC 00023 1B Dept. No.: I
ACTIVEHOURS, INC., a Delaware corporation; STACY PRESS, an individual, Plaintiffs, vs. KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendants.	Case No.: 24 OC 00029 1B Dept. No.: I

HOLLAND & HART LLP
5470 KIETZKE LANE
SUITE 1100
RENO, NV 89511

DAILYPAY, INC'S NOTICE OF APPEAL

Plaintiff DAILYPAY, INC. ("DailyPay"), by and through its undersigned counsel and pursuant to NRS 41.670(4), hereby appeals to the Supreme Court of the State of Nevada the First Judicial District Court's FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING PLAINTIFFS' LEGAL CHALLENGE TO INITIATIVE PETITION S-03-2024 (the "Order"), entered in the above-captioned consolidated cases on April 15, 2024. A true and correct copy of the District Court's Order is attached hereto as **Exhibit 1**.

AFFIRMATION

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

Dated this 23 day of April 2024.

HOLLAND & HART LLP

J. Malcolm DeVoy (11950)
Matthew Morris (15068)
5470 Kietzke Lane, Suite 100
Reno, NV 89511
Tel: (775) 327-3000
Fax: (775) 786-6179
jmdevoy@hollandhart.com
mcmorris@hollandhart.com

HOLLAND & HART LLP
5470 KIETZKE LANE
SUITE 1100
RENO, NV 89511

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April 2024, I served the foregoing **DAILYPAY, INC.'S NOTICE OF APPEAL** via electronic mail, per the February 22, 2024, Stipulation and Scheduling Order of the Court, as follows:

Laena St. Jules, Esq.
OFFICE OF THE ATTORNEY GENERAL
LStJules@ag.nv.gov
Attorneys for Defendant, Hon. Francisco V. Aguilar

Todd L. Bice,. Esq.
Jordan T. Smith, Esq.
Daniel R. Brady, Esq.
PISANELLI BICE PLLC
TLB@pisanellibice.com
JTS@pisanellibice.com
DRB@pisanellibicve.com
Attorneys for Plaintiffs Nevadans for Financial Choice and Christina Bauer

Bradley S. Schrager, Esq.
Daniel Bravo, Esq.
BRAVO SCHRAGER LLP
bradley@bravoschrager.com
daniel@bravoschrager.com

Attorneys for Kate Feldman and Intervenor-Defendant Stop Predatory Lending NV

Elizabeth Sorokac, Esq.
Joshua Reisman, Esq.
Michael Kalish, Esq.
REISMAN SOROKAC
esorokac@rsnvlaw.com
jreisman@rsnvlaw.com
mkalish@rsnvlaw.com
Attorneys for Plaintiffs Preferred Capital Funding-Nevada LLC and Alliance for Responsible Consumer Legal Funding

Severin Carlson, Esq.
Sihomara Graves, Esq.
KAEMPFER CROWELL
scarlson@kcnvlaw.com
sgraves@kcnvlaw.com
Attorneys for Plaintiffs Activehours, Inc. and Stacy Press

Billie Shadron
Judicial Assistant
FIRST JUDICIAL DIST. CT. DEPARTMENT II
bshadron@carson.org

By: Valerie Larsen
An Employee of
HOLLAND & HART LLP

HOLLAND & HART LLP
5470 KIETZKE LANE
SUITE 1100
RENO, NV 89511

INDEX OF EXHIBITS

Exhibit No.	Document Title	No. of Pages
1	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING PLAINTIFFS' CHALLENGE TO INITIATIVE PETITION S-03-2024	10

31917068_v1

HOLLAND & HART LLP
5470 KIETZKE LANE
SUITE 1100
RENO, NV 89511

EXHIBIT 1

EXHIBIT 1

REC'D & FILED
Jan 15, 2024
Date
WILLIAM SCOTT HOEN
CLERK
By [signature] Deputy

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee, and CHRISTINA BAUER, an individual, Plaintiffs, vs. KATE FELDMAN, an individual, STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State, Defendants.	Lead Case No.: 24 OC 00018 1B Dept. No.: II
DAILYPAY, INC., a Delaware Corporation, Plaintiff, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendant, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., and KATE FELDMAN, an individual, Intervenor-Defendants.	Consolidated with Case No.: 24 OC 00021 1B Dept. No.: II

BRAVO SCHRAGER LLP

PREFERRED CAPITAL FUNDING-NEVADA, LLC, a Nevada limited liability company, and ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation, Plaintiffs, vs. FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, and KATE FELDMAN, an individual, Defendants, and STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp., Intervenor-Defendant.	Case No.: 24 OC 00023 1B Dept. No.: I
ACTIVEHOURS, INC., a Delaware corporation; STACY PRESS, an individual, Plaintiffs, vs. KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada Nonprofit Corp.; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Defendants.	Case No.: 24 OC 00029 1B Dept. No.: I

FILED IN ERROR

BY

FILED IN ERROR

FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER DENYING PLAINTIFFS' LEGAL CHALLENGE TO INITIATIVE PETITION S-03-2024

This matter came before this Court following four complaints, filed by four different sets of plaintiffs, pursuant to NRS 295.061, challenging the legal sufficiency of Initiative Petition S-03-2024 (the "Petition"). On January 24, 2024, Kate Feldman filed Initiative Petition S-03-2024 with the Nevada Secretary of State (the

"Secretary").

The Court, having reviewed the papers and pleadings on file, considered the matter, being fully advised, and good cause appearing, finds, concludes, and orders as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW[1]

A. FINDINGS OF FACT

1. Initiative Petition S-03-2024

On January 24, 2024, Kate Feldman, on behalf of Stop Predatory Lending NV, filed the Petition with the Secretary. The Petition seeks to amend the Nevada Revised Statutes by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act.

The Petition includes a description of effect as required by NRS 295.009(1)(b), which reads, in full:

> This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.
>
> Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.
>
> The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

2. Procedural History

On January 26, 2024, Plaintiffs Nevadans For Financial Choice and Christina Bauer (collectively, "Nevadans for Financial Choice" or "NFFC") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative

[1] Any findings of fact which are more appropriately considered conclusions of law shall be treated as such, and any conclusions of law which are more appropriately considered findings of fact shall be treated as such.

Petition S-01-2024, pursuant to NRS 295.061, and a Brief in Support of the Complaint. Subsequently, on February 14, Plaintiffs Nevadans for Financial Choice filed a First Amended Complaint timely adding Initiative Petition S-03-2024 to their challenge.

On January 29, Plaintiff DailyPay, Inc. ("DailyPay") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On January 29, Plaintiffs Preferred Capital Funding - Nevada, LLC and Alliance For Responsible Consumer Legal Funding (collectively, "Preferred Capital") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

On February 13, Plaintiffs ActiveHours, Inc. and Stacy Press (collectively, "ActiveHours") filed a Complaint for Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative Petition S-03-2024, pursuant to NRS 295.061.

On or about February 22, the parties stipulated to, and the Court ordered, that the filed suits be consolidated into one action to make the matter more efficient in terms of judicial economy, and the parties agreed to a briefing schedule. After briefing, the Court held hearing on the consolidated matters on March 22, 2024.

B. CONCLUSIONS OF LAW

1. The Petition Does Not Violate Nevada's Single Subject Rule

NRS 295.009(1) provides that "[e]ach petition for initiative or referendum must ... [e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto." Subsection 2 of that statute explains that an initiative "embraces but one subject and matters necessarily connected therewith and pertaining thereto, if the parts of the proposed initiative ... are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative." NRS 295.009(2).

The single-subject requirement "facilitates the initiative process by preventing petition drafters from circulating confusing petitions that address multiple subjects." *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006). Thus, "the single-subject requirement helps both in promoting informed decisions and in preventing the enactment of unpopular provisions by attaching them to more attractive proposals or concealing them in lengthy, complex initiatives (i.e., logrolling)." *Las Vegas Taxpayer Accountability Comte. v. City Council of City of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009).

In considering single-subject challenges, courts must first determine the initiative's purpose or subject. "To determine the initiative's purpose or subject, this court looks to its textual language and the proponents' arguments." *Las Vegas Taxpayer*, 125 Nev. at 180, 208 P.3d at 439. Courts also will look at whether the description of effect articulates an overarching purpose and explains how provisions relate to a single subject. *Id.*

Furthermore, and most recently, in *Helton v. Nevada Voters First PAC*, 138 Nev. Adv. Op. 45, 512 P.3d 309 (2022), the Nevada Supreme Court stated that "even if an initiative petition proposes more than one change, each of which could be brought in separate initiative petitions, the proper consideration is whether the changes are functionally related and germane to each other and the petition's subject." *Id.*, 512 P.3d at 314. The Court found that "(b)oth categories of changes proposed in the ... initiative concern the election process in Nevada and more specifically how candidates for the specifically defined partisan offices are presented to voters and elected." *Id.*, 512 P.3d at 314-15.

In this case, the Court finds that the primary purpose of the Petition is to limit interest rates on consumer loan transactions, and that all components of the Petition are functionally related and germane to that purpose. The Court finds that the Petition limits consumer interest rates on the transactions it defines as loans to 36% annually. Each of the provisions of the Petition either establish that limit, make

conforming or ancillary changes to other statutes, or—in the case of the Sections 10 through 14, provide enforcement mechanisms necessary and germane to the operation of the Petition's purpose. Further, the Court finds that the Petition's text, its description, and the arguments of the Proponents in briefing and at hearing of effect confirm the Petition's primary purpose. Therefore, this Court finds that Initiative Petition S-03-2024 does not violate NRS 295.009(1)(a)'s single-subject requirement.

2. The Petition's Descriptions Of Effect Is Legally Adequate

Under NRS 295.009(1)(b), every initiative must "[s]et forth, in not more than 200 words, a description of the effect of the initiative or referendum if the initiative or referendum is approved by the voters." The purpose of the description is to "prevent voter confusion and promote informed decisions." *Nevadans for Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006). Thus, "[t]he importance of the description of effect cannot be minimized, as it is what the voters see when deciding whether to even sign a petition." *Coal. for Nev.'s Future v. RIP Com. Tax, Inc.*, No. 69501, 2016 WL 2842925 at *2 (2016) (unpublished disposition) (citing *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013)). "[T]he description of effect may hold even more impact with respect to a referendum, since merely gathering sufficient signatures to place a referendum on the ballot guarantees a change to the law regardless of the election's outcome." *Id.* (citing Nev. Const. art. 19, § 1(3) (providing that, if the voters approve the referendum, the statute "shall stand as the law of the state and shall not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people," and if the voters disapprove the statute or resolution, it is rendered void)).

The Nevada Supreme Court has repeatedly held that "a description of effect must be straightforward, succinct, and non-argumentative, and it must not be deceptive or misleading." *Educ. Initiative PAC*, 129 Nev. at 42, 293 P.3d at 879 (internal quotation marks and citation omitted). It must also "explain the[]

ramifications of the proposed amendment" in order to allow voters to make an informed decision. *Nev. Judges Ass'n v. Lau*, 112 Nev. 51, 59, 910 P.2d 898, 903 (1996).

This Court finds that the Petition's description of effect meets the requirements of Nevada law. The description of effect is straightforward, succinct, under 200 words, and there is no basis for a finding of any argumentative language. The description proceeds, succinctly and directly, through (1) a general statement of the Petition's purpose; (2) a neutral and accurate statement of current law regarding interest rate limitations; (3) a description of the transactions to which the proposed cap would apply; and (4) a statement of enforcement aspects of the proposal. The Court finds that Plaintiffs fail to meet the burden of showing that the Petition's description of effect does not comply with NRS 295.009. Therefore, the Court finds the description of effect for Initiative Petition S-03-2024 satisfies Nevada's NRS 295.009 requirement as the plain language of the description is straightforward, succinct, and non-argumentative.

3. The Petition Does Not Contain An Unfunded Mandate

Article 19, section 2(1) of the Nevada Constitution provides that the initiative process is "subject to the limitations of' Article 19, Section 6, which "does not permit the proposal of any statute or statutory amendment which makes an appropriation or otherwise requires the expenditure of money, unless such statute or amendment also imposes a sufficient tax, not prohibited by the constitution, or otherwise constitutionally provides for raising the necessary revenue." As the Nevada Supreme Court holds, Section 6 applies to all proposed initiatives. *Rogers v. Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036 (2001). The primary purpose behind this requirement is to ensure that no initiative is presented to the voters without funding provisions when the initiative requires an appropriation or expenditure.

"[A]n appropriation is the setting aside of funds, and an expenditure of money is the payment of funds." *Rogers v. Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036

(2001). "A necessary appropriation or expenditure in *any* set amount or percentage is a new requirement that otherwise does not exist." *Id.*, 117 Nev. at 176. "[A]n initiative makes an appropriation or expenditure when it leaves budgeting officials no discretion in appropriating or expending the money mandated by the initiative—the budgeting official must approve the appropriation or expenditure, regardless of any other financial considerations." *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 890, 141 P.3d 1224, 1233 (2006).

Here, this Court finds that plaintiffs do not provide any evidence regarding the expected unfunded expenditures or costs they insist come along with the Petition, but rather argue that increased regulation must somehow necessarily increase the workload of state personnel, and therefore will increase state expenditures in some form. While the Court is not unsympathetic to that argument, Nevada Supreme Court case law authority interpreting Article 19, Section 6 does not support invalidating a proposed ballot measure on those grounds. This Petition does not require specific enforcement procedures, creates no additional regulatory bodies or agencies, and Plaintiffs cannot point to specific instances of mandatory, non-discretionary appropriations that would have to be made should this Petition become law. Therefore, the Court finds that Plaintiffs fail to meet the burden of showing that the Petition violates Article 19, Section 6 of the Nevada Constitution.

4. The Petition Does Not Violate Article 19, Section 3

Under Article 19, Section 3 of the Nevada Constitution, proponents must "include the full text of the measure proposed" with their initiative petition. Nev. Const. art. 19, § 3. Plaintiffs DailyPay and Nevadans for Financial Choice make "full-text" arguments against the Petition. This Court rejects plaintiffs' arguments and finds that the Petition contains every provision that is proposed to be circulated for signatures and to considered by the electorate, and that therefore there is no violation of Article 19, Section 3.

Furthermore, this Court rejects the other various challenges to the Petition's

legal sufficiency.[2]

ORDER

Based on the foregoing findings of fact and conclusions of law:

1. **IT IS THEREFORE ORDERED** and declared that Initiative Petition S-03-2024 is legally sufficient.

2. **IT IS FURTHER ORDERED** and declared that Initiative Petition S-03-2024 does not violate Nevada's single subject rule.

3. **IT IS FURTHER ORDERED** and declared that Initiative Petition S-03-2024's description of effect meets the requirements of Nevada law.

4. **IT IS FURTHER ORDERED** and declared that Initiative Petition S-03-2024 does not contain an unfunded mandate.

///

///

///

///

///

///

///

///

///

///

///

[2] To the extent other arguments were raised by any Plaintiffs, like DailyPay's contention that the Petition is a referendum instead of an initiative, the Court has considered them and finds them without merit. The Petition does not change a single word of SB 290 (2023). Further, the Petition makes numerous amendments to Nevada statutes, and creates new statutory sections; therefore the Petition is a statutory initiative pursuant to Article 19, Section 2(3).

5. **IT IS FURTHER ORDERED** that plaintiffs' challenges to Initiative Petition S-03-2023 are rejected, and Plaintiffs' complaints are dismissed with prejudice as to their challenge to Initiative Petition S-03-2023.

Dated this 12th day of April, 2024.

William A. Maddox
District Court Judge

Respectfully Submitted by:

/s/ Bradley S. Schrager
BRADLEY S. SCHRAGER, ESQ. (SBN 10217)
DANIEL BRAVO, ESQ. (SBN 13078)
BRAVO SCHRAGER LLP
6675 South Tenaya Way, Suite 200
Las Vegas, Nevada 89113

Attorneys for Kate Feldman and Stop Predatory Lending NV