

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 LEGAL
FUNDING, an Illinois Nonprofit Corporation
Appellants,

vs.

FRANCISCO V. AGUILAR, in his official
capacity as Nevada Secretary of State; KATE
FELDMAN, an individual; AND STOP
PREDATORY LENDING NV, a Nevada
nonprofit corporation,
Respondents.

Electronically Filed
Jun 04 2024 07:10 PM
Case No. 88557 Elizabeth A. Brown
Clerk of Supreme Court
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.

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: Honorable William A. Maddox

District Court Case No.: 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. Attorney filing this docketing statement:

Attorney: Joshua H. Reisman, Esq., Elizabeth M. Sorokac, Esq., Michael R. Kalish., Esq.

Telephone: (702) 727-6258

Firm: Reisman Sorokac

Address: 8965 South Eastern Avenue, Suite 382, Las Vegas, Nevada 89123

Clients: Preferred Capital Funding-Nevada, LLC and Alliance for Responsible Consumer Legal Funding

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

Attorney: Bradley Schrager, Esq., Daniel Brady, Esq.

Telephone: (702) 996-1724

Firm: Bravo Schrager LLP

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

Client(s): Respondents, Kate Feldman and Stop Predatory Lending NV

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

- | | |
|--|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): |
| <input checked="" type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of Agency determination | <input checked="" type="checkbox"/> Other disposition (specify): ballot initiative challenge to S-03-2024, denial of injunctive relief and final judgment entered |

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

- ☐ 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 cases

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:

Appellants Preferred Capital Funding-Nevada, LLC and Alliance for Responsible Consumer Legal Funding (collectively “ARC”) challenged Ballot Initiative Petitions S-01-2024 and S-03-2024 (collectively, the “Petitions”) in the First Judicial District Court. ARC challenged the Petitions based on violations of the single-subject and description-of-effect requirements under NRS 295.061. There were multiple parties that challenged the Petitions, which challenges were

consolidated for efficiency and judicial economy. The First Judicial District Court's April 15, 2024, order found that Petition S-03-2024 complied with the requirements of NRS 295.061 regarding single-subject and description-of-effect. ARC then filed a timely appeal.

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

- Whether the Petition S-03-2024 embraces more than one subject in violation of NRS 295.009's single-subject requirement.
- Whether the Initiative's purpose or subject is preventing predatory lending—not an overall program of consumer debt relief.
- Whether the Initiative's provisions are not all functionally related and germane to the purpose of preventing predatory lending.
- Whether Appellants are attempting to circumvent the single-subject rule by impermissibly phrasing the Initiative's purpose or subject in terms of excessive generality.
- Whether the Initiative's provisions are not all functionally related and germane to the purported purpose of “an overall program of consumer debt relief.”
- Whether the Description of Effect is legally insufficient under NRS 295.009(1)(b) because it fails to provide a straightforward summary of the Initiative's goals and how it intends to achieve those goals.

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 First Judicial District Court's order on a related Petition S-01-2024. ARC (and others) challenged this Petition. The First Judicial District Court found that this Petition violates NRS 295.009's procedural rules.

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

X An issue of public policy

X An issue where en banc consideration is necessary to maintain uniformity of this court's decision

X A ballot question

If so, explain:

This is a ballot measure challenge arising under NRS 295.061. There is a public policy of ensuring that voters understand what they are voting for or against. As it is currently moving forward to signature gathering, Petition S-03-2024 does not inform voters of what they are voting on. An en banc consideration of this matter is needed in order to maintain uniformity of this Court's decisions related to single-subject and other ballot initiative petition matters.

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 circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This appeal is presumptively a matter to be heard by the Nevada Supreme Court pursuant to NRAP 17(a)(2), applying to ballot or election questions.

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. N/A

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from: April 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:** April 16, 2024

☐ Delivery

X 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. N/A

☐ 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. ____, P.3d 1190 (2010). N/A

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

(c) Date written notice of entry of order resolving motion served _____.

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed: May 14, 2024

DailyPay – April 26, 2024

Nevadans for Financial Choice – May 8, 2024

Active Hours – May 10, 2024

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:

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Default judgment

☐ Other (specify):

Explain how each authority provides basis for appeal from the judgment or order:

The First Judicial District Court entered a final judgment in the action pending before it. This final judgment is appealable to this Court.

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

(a) Parties:

Appellants - Preferred Capital Funding-Nevada, LLC, Alliance for Responsible Consumer Legal Funding DailyPay, Inc., Nevadans for Financial Choice, Christina Bauer, ActiveHours, Inc. and Stacy Press

Respondents - Kate Feldman, Stop Predatory Lending NV, and Hon. Francisco Aguilar

(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 of the Appellants challenges Petition S-03-2024 based on NRS 295.009, which contains the single-subject and description of effect requirements for ballot initiatives.

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: N/A

(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)): N/A

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.

Preferred Capital Funding – Nevada, LLC

and Alliance for Responsible Consumer

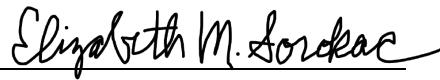
Legal Funding

Elizabeth M. Sorokac, Esq.

Name of appellants

Name of counsel of record

June 4, 2024



Date

Signature of counsel of record

Nevada, Clark County

State and County where signed

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of June, 2024, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

X By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Bradley S. Schrager, Esq.
Daniel Bravo, Esq.
Laena St. Jules, Esq.
J. Malcolm DeVoy, Esq.
Matthew Morris, Esq.
Todd L. Bice, Esq.
Severin A. Carlson, Esq.
Sihomara L. Graves, Esq.

See attachment.

Dated this 4th day of June, 2024

By: /s/ Rachel Lord
an Employee of REISMAN SOROKAC

Attachment to Certificate of Service

Bradley S. Schrager, Esq.

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Attachment 1

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8 Attorneys for *Plaintiffs*

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

12 PREFERRED CAPITAL FUNDING -
13 NEVADA, LLC, a Nevada limited liability
company, and ALLIANCE FOR
14 RESPONSIBLE CONSUMER LEGAL
FUNDING, an Illinois nonprofit corporation,

15 Plaintiffs,

16 vs.

17 FRANCISCO V. AGUILAR, in his official
18 capacity as NEVADA SECRETARY OF
STATE, and KATE FELDMAN, an individual,

19 Defendants.

CASE NO. 240c00073-1B
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**

24 Plaintiffs Preferred Capital Funding - Nevada, LLC, a Nevada limited liability company,
25 and Alliance For Responsible Consumer Legal Funding, an Illinois nonprofit corporation, by and
26 through their attorneys, Joshua H. Reisman, Esq., Elizabeth M. Sorokac, Esq., and Michael R.
27 Kalish, Esq., of the law firm Reisman Sorokac, hereby complain against Defendants Francisco V.
28

1 Aguilar, in his official capacity as Nevada Secretary of State, and Kate Feldman, an individual,
2 pursuant to NRS 295.061 and 30.010 et seq., as follows:

3 **PARTIES**

4 1. Plaintiff Preferred Capital Funding - Nevada, LLC is, and at all relevant times was,
5 a Nevada limited liability company organized, existing and doing business in the State of Nevada
6 to provide consumer litigation funding. Plaintiff Preferred Capital Funding – Nevada LLC has
7 been licensed as a consumer litigation funding company since 2019 and its principal place of
8 business is in Las Vegas, Nevada.

9 2. Plaintiff Alliance For Responsible Consumer Legal Funding is, and at all relevant
10 times was, an Illinois nonprofit corporation organized and existing in the State of Illinois, and
11 representing consumer litigation funding companies doing business in the State of Nevada.

12 3. Defendant Francisco V. Aguilar is the Nevada Secretary of State ("Secretary") and
13 is sued in his official capacity.

14 4. Defendant Kate Feldman, an individual, is the individual that filed that certain (i)
15 Notice of Intent Statewide Initiative or Referendum Petition designated as S-01-2024 entitled
16 "Initiative Petition – Statewide Statutory Measure" ("Petition S-01") and (ii) Notice of Intent
17 Statewide Initiative or Referendum Petition designated as S-03-2024 entitled "Initiative Petition –
18 Statewide Statutory Measure" ("Petition S-03", together with Petition S-01, the "Petition") with
19 the Secretary that is the subject of this Complaint.¹

20 **JURISDICTION**

21 5. This Court has jurisdiction over this matter because Plaintiffs assert claims
22 pursuant to NRS 295.061 and seek declaratory and injunctive relief pursuant to NRS 30.010 et
23 seq.

24
25
26 ¹ Petition S-03 was filed separately and designated separately by the Secretary. Petition S-
27 03 restates Petition S-01 in its entirety, but it removes Sections 17 and 18 of Petition S-01 and a
28 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.

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;

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

1 as regulated by NRS 688A.110; (ix) all loans made by a bank, savings bank, savings and loan
2 association, or credit union organized, chartered or holding a certificate of authority to do business
3 under the laws of the State of Nevada; (x) consumer credit extended to certain members of the
4 military and dependents as regulated by NRS 99.050; and (xi) earned wage access services as
5 regulated by Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023),
6 2023 Nev. Stat., ch. 400. *See* Ex. 1 at 3-4, and 6-10, and Ex. 2 at 3-4, and 6-10.

7 13. In addition to the Specific Interest Rate Restrictions and the Catch-All Interest Rate
8 Restrictions, the Petition seeks to cause the State of Nevada to opt out of Sections 521 to 523 of
9 the Depository Institutions Deregulation and Monetary Control Act of 1980., 96 P.L. 221, 94 Stat.
10 132 ("Act"), to prevent lenders from applying any interest rates permitted by such Act to all loans
11 made subject to the new NRS Chapter 604D as a result of the Petition (the, "Act Opt-Out
12 Provision"). *See* Ex. 1 at 6, and Ex. 2 at 6.

13 14. Additionally, Petition S-01 seeks to (i) increase the minimum amount of money
14 that is not subject to a writ of execution or garnishment levied against a personal bank account of a
15 judgment debtor pursuant to NRS 21.105, and require such amount to be adjusted based on
16 changes to the Consumer Price Index for All Urban Consumers, Annual City Average, for the
17 Western Region (the, "Garnishment Restrictions"), and (ii) remove civil immunity for a financial
18 institution that makes an incorrect determination of whether money in the account of a judgment
19 debtor is subject to execution pursuant to NRS 21.105 after applying commercially reasonable
20 methods because the source of the money was not clearly identifiable or because the financial
21 institution inadvertently misidentified the source of the money (the, "Immunity Waiver"). *See* Ex.
22 1 at 10-12, and 18.

23 15. Lastly, Petition S-01 seeks to (i) increase the percentage of disposable earnings of a
24 judgment debtor that are exempt from execution pursuant to NRS 21.090, and require such
25 amount to be adjusted based on changes to the Consumer Price Index for All Urban Consumers,
26 Annual City Average, for the Western Region, and (ii) revise the definition of earnings as defined
27 in NRS 21.090(1)(g)(2) to also include compensation payable for personal services performed by a
28

1 judgment debtor whether such judgment debtor is an independent contractor or employee
2 (collectively, the "Disposable Earnings Restrictions"). See Ex. 1 at 12-13, and 18.

3 16. Petition S-01 includes the following description of effect ("Petition S-01
4 Description"):

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

8 Currently, most consumer loans have no interest rate cap. The proposed
9 cap would set a maximum interest rate of 36% annually on the unpaid
10 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.

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

14 Additionally, the initiative automatically protects \$5,000 of savings in a
15 personal bank account (up from \$400 now), and \$850 of wages in any
16 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."

17 See Ex. 1 at 19.

18 17. Petition S-03 includes the following description of effect ("Petition S-03
19 Description", together with Petition S-01 Description, the "Description"):

21 "This measure addresses high-interest lending practices by establishing
22 maximum interest rates charged to consumers.

23 Currently, most consumer loans have no interest rate cap. The proposed
24 cap would set a maximum interest rate of 36% annually on the unpaid
25 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.

26 The initiative also prohibits evading the interest rate cap by structuring
27 transactions to mask their nature as loans covered by this measure, or
28 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. 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.

1 24. In addition to the Catch-All Interest Rate Restrictions, the Specific Interest Rate
2 Restrictions seek to limit the interest rate that is chargeable under eleven separate types of
3 transactions, including loans and consumer litigation funding.

4 25. As such, the Catch-All Interest Rate Restrictions and the Specific Interest Rate
5 Restrictions provisions of the Petition seek to embrace at least eleven different subjects.

6 26. Furthermore, the loans and consumer litigation funding transactions listed in the
7 Specific Interest Rate Restrictions are utilized when consumers are in need of credit in specific
8 types of transactions, and, the customary terms for such transactions are inherently different,
9 including, the amount, term, repayment terms, collateral, and interest rate.

10 27. The legislature of the State of Nevada has deemed the transactions listed in the
11 Specific Interest Rate Restrictions to be sufficiently distinct and unique to require that each of
12 these such transactions be subject to separate statutory and licensing requirements, including,
13 without limitation, consumer litigation funding transactions that are subject to NRS Chapter 604C.

14 28. Indeed, "[n]othing in [NRS Chapter 604C] shall be construed to cause any
15 consumer litigation funding transaction conforming to this chapter to be deemed a loan or to be
16 subject to any of the provisions of law governing loans. A consumer litigation funding transaction
17 that complies with this chapter is not subject to any other statutory or regulatory provisions
18 governing loans or investment contracts." NRS 604C.220(2).

19 29. As a result, the Catch-All Interest Rate Restrictions and the Specific Interest Rate
20 Restrictions portions of the Petition are not functionally related or germane to each other.

21 30. Moreover, in addition to the at least eleven different subjects already embraced in
22 the Catch-All Interest Rate Restrictions and the Specific Interest Rate Restrictions, the Petition
23 also seeks to embrace four additional subjects through the inclusion of the (i) Act Opt-Out
24 Provision, (ii) Garnishment Restrictions, (iii) Immunity Waiver, and (iv) Disposable Earnings
25 Restrictions.

26 31. The subjects set forth in the Catch-All Interest Rate Restrictions and the Specific
27 Interest Rate Restrictions are unquestionably separate from the Act Opt-Out Provision,
28 Garnishment Restrictions, Immunity Waiver, and Disposable Earnings Restrictions.

1 32. Furthermore, the interest rate restrictions contained in the Catch-All Interest Rate
2 Restrictions and the Specific Interest Rate Restrictions, which contain separate subjects therein,
3 have no bearing on whether the State of Nevada should opt out of the Act, or on the amounts that
4 are exempt from garnishment by a lender, or on the potential civil immunity for a lender's failure
5 to determine what amounts are exempt from garnishment.

6 33. As such, the Act Opt-Out Provision, Garnishment Restrictions, Immunity Waiver,
7 and Disposable Earnings Restrictions are not functionally related or germane to each other, the
8 Catch-All Interest Rate Restrictions or the Specific Interest Rate Restrictions.

9 34. The inclusion of the separate subjects contained within the Catch-All Interest Rate
10 Restrictions, Specific Interest Rate Restrictions, Act Opt-Out Provision, Garnishment Restrictions,
11 Immunity Waiver, and Disposable Earnings Restrictions are an attempt to conceal unattractive
12 proposals with proposals that the petitioner believes are more attractive to the voters of the State of
13 Nevada.

14 35. Accordingly, for the reasons cited above, among other things, the Petition violates
15 NRS 295.009(1)(a) and, therefore, is invalid.

16
17 **SECOND CAUSE OF ACTION**

18 **(Violation of NRS 295.009(1)(b))**

19 36. Plaintiffs repeat and re-allege each and every allegation contained above as though
20 fully set forth herein.

21 37. A petition for initiative or referendum is required to "[s]et forth, in not more than
22 200 words, a description of the effect of the initiative or referendum if the initiative or referendum
23 is approved by the voters." NRS 295.009(1)(b).

24 38. The purpose of the description of effect is to "prevent voter confusion and promote
25 informed decisions." *Nevadans for Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006)
26 (quoting *Campbell v. Buckley*, 203 F.3d 738, 746 (10th Cir. 2000)).

1 39. "[A] description of effect must identify what the law proposes and how it intends to
2 achieve that proposal." *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 42, 293
3 P.3d 874, 879 (2013).

4 40. A description of effect, including, the title of the petition, must be a
5 "straightforward, succinct, and nonargumentative summary of an initiative's purpose and how that
6 purpose is achieved." *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 48, 293
7 P.3d 874, 883 (2013) (quoting *Las Vegas Taxpayer Accountability v. City Council of Las Vegas*,
8 125 Nev. 165, 183, 208 P.3d 429, 441 (2009)). And, a description of effect must not
9 "misrepresent what the initiative will accomplish and how it intends to achieve those goals." *Id*
10 (quoting *Stumpf v. Lau*, 108 Nev. 826, 833, 839 P.2d 120, 124 (1992)).

11 41. A description of effect is invalid under NRS 295.009(1)(b) when it fails to include
12 the effects of a petition. *See Las Vegas Taxpayer Accountability v. City Council of Las Vegas*, 125
13 Nev. 165, 183-184, 208 P.3d 429, 441 (2009) (holding that a description of effect was insufficient
14 because it failed to accurately inform voters of the consequences that would result if the measure
15 passed).

16 42. From the outset, the title of the Petition, which is entitled "Initiative Petition –
17 Statewide Statutory Measure," fails to provide voters with any idea regarding the subject matter or
18 potential effect of the Petition.

19 43. The Description states that the Petition is addressing "high-interest lending
20 practices." *See* Ex. 1 at 19, and Ex. 2 at 11. High-interest loans are specifically defined in NRS
21 604A.0703 and do not include other loan products or types of transactions, such as consumer
22 litigation funding transactions governed by NRS Chapter 604C. The Petition seeks not only to
23 restrict high-interest loans but various types of transactions pursuant to the Catch-All Interest Rate
24 Restrictions and Specific Interest Rate Restrictions. As such, the Description misleads voters into
25 believing that the Petition will only address high-interest loans.

26 44. The Description states that "most consumer loans have no interest rate cap." *See*
27 Ex. 1 at 19, and Ex. 2 at 11. However, a number of different transactions covered by the Petition,
28 including consumer litigation funding transactions governed by NRS Chapter 604C, have interest

1 rate restrictions. As such, the Description's general characterization of the nonexistence of interest
2 rate caps misleads voters into believing that the majority of consumer loans and other types of
3 transactions subject to the Petition and their corresponding interest rates are unregulated under
4 Nevada law.

5 45. The Description states that the Petition's proposed interest rate cap applies to
6 "consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types
7 dependent on future earnings and income." *See* Ex. 1 at 19, Ex. 2 at 11. A consumer litigation
8 funding transaction is a nonrecourse transaction where a consumer is provided funding from a
9 funding company to help pay for living expenses, and in exchange, the consumer assigns to such
10 funding company the right to receive an amount of the potential proceeds of a settlement,
11 judgment, award or verdict obtained in the litigation being pursued by such consumer. *See* NRS
12 604C.100. Consumer litigation funding transactions by definition and nature are not loans. The
13 State of Nevada legislature made clear that "[n]othing in [NRS Chapter 604C] shall be construed
14 to cause any consumer litigation funding transaction conforming to this chapter to be deemed a
15 loan or to be subject to any of the provisions of law governing loans." *See* NRS 604C.220(2). The
16 Description mischaracterizes consumer litigation funding transactions as loans and includes them
17 in the same category as loans.

18 46. Moreover, the Description fails to separately identify all of the other specific types
19 of transactions set forth in the Specific Interest Rate Restrictions. The Description also fails to
20 explain that the Petition seeks to place interest rate caps on various types of transactions, including
21 consumer litigation funding transactions, pursuant to the Catch-All Interest Rate Restrictions. As
22 such, the Description's mischaracterization of consumer litigation funding transactions as loans
23 and its failure to clearly identify all transactions that are subject to the proposed interest rate cap
24 prevents voters from determining what transactions are actually affected by such cap and will
25 prevent voters from making informed decisions.

26 47. The Description fails to include any explanation of the potential impact of
27 imposing the proposed interest rate cap under the Petition. Under the Catch-All Interest Rate
28 Restrictions and Specific Interest Rate Restrictions, the Petition broadly imposes an interest rate

1 cap on all loan transactions, which will likely require lenders to modify other terms of their
2 transactions or require lenders to cease providing certain products to consumers. The Description
3 misleads voters into believing that that the voters (the consumer borrowers) will not be impacted
4 by the imposition of the interest rate cap proposed under the Petition.

5 48. The Petition S-01 Description states that the amounts exempt from garnishment
6 under the Petition "would be indexed to increase periodically with inflation." *See* Ex. 1 at 19.
7 However, the Disposable Earnings Restrictions and Garnishment Restrictions only permit
8 adjustments one year after enactment, and then every three years thereafter, based on changes in
9 the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western
10 Region. If any deflation occurred in the Consumer Price Index for All Urban Consumers, Annual
11 City Average, for the Western Region, the Disposable Earnings Restrictions and Garnishment
12 Restrictions require such amounts to be adjusted accordingly and do not prohibit any reductions in
13 such amounts. The Description misleads voters into believing that amounts exempt from
14 garnishment will continue to increase on a far more frequent basis than what is permitted under the
15 Petition and that such amounts will never be decreased.

16 49. The Description fails to include any description of the Act or the effects of the Act
17 Opt-Out Provision. The typical voter is not likely to be aware or have an understanding of the
18 complex provisions of the Act, which was enacted over four decades ago, or the effect of the Act
19 Opt-Out Provision. Voters cannot make an informed decision without a description of the same
20 and, therefore, the Description is misleading.

21 50. Based on the foregoing, the Description fails to provide a straightforward, succinct
22 and nonargumentative summary of the Petition, and it misrepresents the goals of the Petition and
23 how it intends to accomplish the same.

24 51. Accordingly, for the reasons cited above, among other things, the Description
25 violates NRS 295.009(1)(b) and, therefore, the Petition is invalid.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, the Plaintiffs asks the Court to enter an order:
28

REISMAN·SOROKAC
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LAS VEGAS, NEVADA 89123
PHONE: (702) 727-6258 FAX: (702) 446-6756

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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


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Elizabeth M. Sorokac, Esq.
Nevada Bar No. 8270
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Nevada Bar No. 12793
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Attorneys for *Plaintiffs*

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



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EXHIBIT 1

State of Nevada
Secretary of State
Francisco V. Aguilar



Notice of Intent
Statewide Initiative or
Referendum Petition
NRS 295.009 and 295.015

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

NAME OF PERSON FILING THE PETITION

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

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.

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

Attachment 2

REC'D & FILED

April 15, 2024
Date

WILLIAM SCOTT HOEN
CLERK

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.

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.

Lead Case No.: 24 OC 00018 1B

Dept. No.: II

Consolidated with

Case No.: 24 OC 00021 1B

Dept. No.: II

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.

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 00023

Dept. No.: I

BY

REC'D & FILED
2024 APR 19 8:11
FILED IN ERROR
WILLIAMSON
CLERK

Case No.: 24 OC 00029 1B

Dept. No.: I

**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

1 “Secretary”).

2 The Court, having reviewed the papers and pleadings on file, considered the
3 matter, being fully advised, and good cause appearing, finds, concludes, and orders
4 as follows:

5 **FINDINGS OF FACT AND CONCLUSIONS OF LAW¹**

6 **A. FINDINGS OF FACT**

7 **1. Initiative Petition S-03-2024**

8 On January 24, 2024, Kate Feldman, on behalf of Stop Predatory Lending NV,
9 filed the Petition with the Secretary. The Petition seeks to amend the Nevada Revised
10 Statutes by adding thereto a new Chapter, to be designated Chapter 604D:
11 Preventing Predatory Payday and Other Loans Act.

12 The Petition includes a description of effect as required by NRS 295.009(1)(b),
13 which reads, in full:

14 This measure addresses high-interest lending practices by
15 establishing maximum interest rates charged to consumers.

16 Currently, most consumer loans have no interest rate cap. The
17 proposed cap would set a maximum interest rate of 36% annually on
18 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.

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

22 **2. Procedural History**

23 On January 26, 2024, Plaintiffs Nevadans For Financial Choice and Christina
24 Bauer (collectively, “Nevadans for Financial Choice” or “NFFC”) filed a Complaint for
25 Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative
26

27 ¹ Any findings of fact which are more appropriately considered conclusions of
28 law shall be treated as such, and any conclusions of law which are more appropriately
considered findings of fact shall be treated as such.

1 Petition S-01-2024, pursuant to NRS 295.061, and a Brief in Support of the
2 Complaint. Subsequently, on February 14, Plaintiffs Nevadans for Financial Choice
3 filed a First Amended Complaint timely adding Initiative Petition S-03-2024 to their
4 challenge.

5 On January 29, Plaintiff DailyPay, Inc. (“DailyPay”) filed a Complaint for
6 Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative
7 Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

8 On January 29, Plaintiffs Preferred Capital Funding - Nevada, LLC and
9 Alliance For Responsible Consumer Legal Funding (collectively, “Preferred Capital”)
10 filed a Complaint for Declaratory and Injunctive Relief challenging the legal
11 sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024,
12 pursuant to NRS 295.061.

13 On February 13, Plaintiffs ActiveHours, Inc. and Stacy Press (collectively,
14 “ActiveHours”) filed a Complaint for Declaratory and Injunctive Relief challenging
15 the legal sufficiency of Initiative Petition S-03-2024, pursuant to NRS 295.061.

16 On or about February 22, the parties stipulated to, and the Court ordered, that
17 the filed suits be consolidated into one action to make the matter more efficient in
18 terms of judicial economy, and the parties agreed to a briefing schedule. After
19 briefing, the Court held hearing on the consolidated matters on March 22, 2024.

20 **B. CONCLUSIONS OF LAW**

21 **1. The Petition Does Not Violate Nevada’s Single Subject Rule**

22 NRS 295.009(1) provides that “[e]ach petition for initiative or referendum must
23 ... [e]mbrace but one subject and matters necessarily connected therewith and
24 pertaining thereto.” Subsection 2 of that statute explains that an initiative “embraces
25 but one subject and matters necessarily connected therewith and pertaining thereto,
26 if the parts of the proposed initiative ... are functionally related and germane to each
27 other in a way that provides sufficient notice of the general subject of, and of the
28 interests likely to be affected by, the proposed initiative.” NRS 295.009(2).

1 The single-subject requirement “facilitates the initiative process by preventing
2 petition drafters from circulating confusing petitions that address multiple subjects.”
3 *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d
4 1235, 1240 (2006). Thus, “the single-subject requirement helps both in promoting
5 informed decisions and in preventing the enactment of unpopular provisions by
6 attaching them to more attractive proposals or concealing them in lengthy, complex
7 initiatives (i.e., logrolling).” *Las Vegas Taxpayer Accountability Comte. v. City Council*
8 *of City of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009).

9 In considering single-subject challenges, courts must first determine the
10 initiative’s purpose or subject. “To determine the initiative’s purpose or subject, this
11 court looks to its textual language and the proponents’ arguments.” *Las Vegas*
12 *Taxpayer*, 125 Nev. at 180, 208 P.3d at 439. Courts also will look at whether the
13 description of effect articulates an overarching purpose and explains how provisions
14 relate to a single subject. *Id.*

15 Furthermore, and most recently, in *Helton v. Nevada Voters First PAC*, 138
16 Nev. Adv. Op. 45, 512 P.3d 309 (2022), the Nevada Supreme Court stated that “even
17 if an initiative petition proposes more than one change, each of which could be
18 brought in separate initiative petitions, the proper consideration is whether the
19 changes are functionally related and germane to each other and the petition’s
20 subject.” *Id.*, 512 P.3d at 314. The Court found that “(b)oth categories of changes
21 proposed in the ... initiative concern the election process in Nevada and more
22 specifically how candidates for the specifically defined partisan offices are presented
23 to voters and elected.” *Id.*, 512 P.3d at 314-15.

24 In this case, the Court finds that the primary purpose of the Petition is to limit
25 interest rates on consumer loan transactions, and that all components of the Petition
26 are functionally related and germane to that purpose. The Court finds that the
27 Petition limits consumer interest rates on the transactions it defines as loans to 36%
28 annually. Each of the provisions of the Petition either establish that limit, make

1 conforming or ancillary changes to other statutes, or—in the case of the Sections 10
2 through 14, provide enforcement mechanisms necessary and germane to the
3 operation of the Petition’s purpose. Further, the Court finds that the Petition’s text,
4 its description, and the arguments of the Proponents in briefing and at hearing of
5 effect confirm the Petition’s primary purpose. Therefore, this Court finds that
6 Initiative Petition S-03-2024 does not violate NRS 295.009(1)(a)’s single-subject
7 requirement.

8 **2. The Petition’s Descriptions Of Effect Is Legally Adequate**

9 Under NRS 295.009(1)(b), every initiative must “[s]et forth, in not more than
10 200 words, a description of the effect of the initiative or referendum if the initiative
11 or referendum is approved by the voters.” The purpose of the description is to “prevent
12 voter confusion and promote informed decisions.” *Nevadans for Nev. v. Beers*, 122
13 Nev. 930, 939, 142 P.3d 339, 345 (2006). Thus, “[t]he importance of the description of
14 effect cannot be minimized, as it is what the voters see when deciding whether to
15 even sign a petition.” *Coal. for Nev.’s Future v. RIP Com. Tax, Inc.*, No. 69501, 2016
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17 *Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013)). “[T]he
18 description of effect may hold even more impact with respect to a referendum, since
19 merely gathering sufficient signatures to place a referendum on the ballot guarantees
20 a change to the law regardless of the election’s outcome.” *Id.* (citing Nev. Const.
21 art. 19, § 1(3) (providing that, if the voters approve the referendum, the statute “shall
22 stand as the law of the state and shall not be amended, annulled, repealed, set aside,
23 suspended or in any way made inoperative except by the direct vote of the people,”
24 and if the voters disapprove the statute or resolution, it is rendered void)).

25 The Nevada Supreme Court has repeatedly held that “a description of effect
26 must be straightforward, succinct, and non-argumentative, and it must not be
27 deceptive or misleading.” *Educ. Initiative PAC*, 129 Nev. at 42, 293 P.3d at 879
28 (internal quotation marks and citation omitted). It must also “explain the[]

1 ramifications of the proposed amendment” in order to allow voters to make an
2 informed decision. *Nev. Judges Ass’n v. Lau*, 112 Nev. 51, 59, 910 P.2d 898, 903
3 (1996).

4 This Court finds that the Petition’s description of effect meets the
5 requirements of Nevada law. The description of effect is straightforward, succinct,
6 under 200 words, and there is no basis for a finding of any argumentative language.
7 The description proceeds, succinctly and directly, through (1) a general statement of
8 the Petition’s purpose; (2) a neutral and accurate statement of current law regarding
9 interest rate limitations; (3) a description of the transactions to which the proposed
10 cap would apply; and (4) a statement of enforcement aspects of the proposal. The
11 Court finds that Plaintiffs fail to meet the burden of showing that the Petition’s
12 description of effect does not comply with NRS 295.009. Therefore, the Court finds
13 the description of effect for Initiative Petition S-03-2024 satisfies Nevada’s
14 NRS 295.009 requirement as the plain language of the description is straightforward,
15 succinct, and non-argumentative.

16 **3. The Petition Does Not Contain An Unfunded Mandate**

17 Article 19, section 2(1) of the Nevada Constitution provides that the initiative
18 process is “subject to the limitations of Article 19, Section 6, which “does not permit
19 the proposal of any statute or statutory amendment which makes an appropriation
20 or otherwise requires the expenditure of money, unless such statute or amendment
21 also imposes a sufficient tax, not prohibited by the constitution, or otherwise
22 constitutionally provides for raising the necessary revenue.” As the Nevada Supreme
23 Court holds, Section 6 applies to all proposed initiatives. *Rogers v. Heller*, 117 Nev.
24 169, 173, 18 P.3d 1034, 1036 (2001). The primary purpose behind this requirement is
25 to ensure that no initiative is presented to the voters without funding provisions when
26 the initiative requires an appropriation or expenditure.

27 “[A]n appropriation is the setting aside of funds, and an expenditure of money
28 is the payment of funds.” *Rogers v. Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036

1 (2001). “A necessary appropriation or expenditure in *any* set amount or percentage is
2 a new requirement that otherwise does not exist.” *Id.*, 117 Nev. at 176. “[A]n initiative
3 makes an appropriation or expenditure when it leaves budgeting officials no
4 discretion in appropriating or expending the money mandated by the initiative—the
5 budgeting official must approve the appropriation or expenditure, regardless of any
6 other financial considerations.” *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 890, 141
7 P.3d 1224, 1233 (2006).

8 Here, this Court finds that plaintiffs do not provide any evidence regarding the
9 expected unfunded expenditures or costs they insist come along with the Petition, but
10 rather argue that increased regulation must somehow necessarily increase the
11 workload of state personnel, and therefore will increase state expenditures in some
12 form. While the Court is not unsympathetic to that argument, Nevada Supreme
13 Court case law authority interpreting Article 19, Section 6 does not support
14 invalidating a proposed ballot measure on those grounds. This Petition does not
15 require specific enforcement procedures, creates no additional regulatory bodies or
16 agencies, and Plaintiffs cannot point to specific instances of mandatory, non-
17 discretionary appropriations that would have to be made should this Petition become
18 law. Therefore, the Court finds that Plaintiffs fail to meet the burden of showing that
19 the Petition violates Article 19, Section 6 of the Nevada Constitution.

20 **4. The Petition Does Not Violate Article 19, Section 3**

21 Under Article 19, Section 3 of the Nevada Constitution, proponents must
22 “include the full text of the measure proposed” with their initiative petition. Nev.
23 Const. art. 19, § 3. Plaintiffs DailyPay and Nevadans for Financial Choice make “full-
24 text” arguments against the Petition. This Court rejects plaintiffs’ arguments and
25 finds that the Petition contains every provision that is proposed to be circulated for
26 signatures and to considered by the electorate, and that therefore there is no violation
27 of Article 19, Section 3.

28 Furthermore, this Court rejects the other various challenges to the Petition’s

1 legal sufficiency.²

2 **ORDER**

3 Based on the foregoing findings of fact and conclusions of law:

4 1. **IT IS THEREFORE ORDERED** and declared that Initiative Petition
5 S-03-2024 is legally sufficient.

6 2. **IT IS FURTHER ORDERED** and declared that Initiative Petition
7 S-03-2024 does not violate Nevada's single subject rule.

8 3. **IT IS FURTHER ORDERED** and declared that Initiative Petition
9 S-03-2024's description of effect meets the requirements of Nevada law.

10 4. **IT IS FURTHER ORDERED** and declared that Initiative Petition
11 S-03-2024 does not contain an unfunded mandate.

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24 ² To the extent other arguments were raised by any Plaintiffs, like DailyPay's
25 contention that the Petition is a referendum instead of an initiative, the Court has
26 considered them and finds them without merit. The Petition does not change a single
27 word of SB 290 (2023). Further, the Petition makes numerous amendments to Nevada
28 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.

William A. Maddox
District Court Judge

/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

Attachment 3

REC'D & FILED
2024 APR 16 AM 11:25
WILLIAM SLOAN
BY CLERK
DEPUTY

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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

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

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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-

1 captioned matter on the 15th of April, 2024. A true and correct copy is attached
2 hereto as Exhibit 1.

3 **AFFIRMATION**

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

6 DATED this 15th day of February, 2024.

7 **BRAVO SCHRAGER LLP**

8
9 By: 

10 BRADLEY S. SCHRAGER, ESQ. (SBN 10217)
11 DANIEL BRAVO, ESQ. (SBN 13078)
12 6675 South Tenaya Way, Suite 200
13 Las Vegas, Nevada 89113
14 Tele.: (702) 996-1724
15 Email: bradley@bravoschrager.com
16 Email: daniel@bravoschrager.com

17 *Attorneys for Kate Feldman and Intervenor-Defendant*
18
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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*

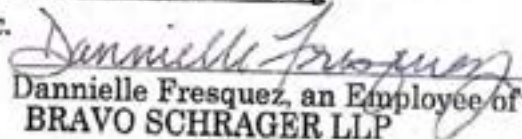
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*Attorneys for Plaintiffs Activehours, Inc.
and Stacy Press*

Billie Shadron
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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

1/15/2024
Date

WILLIAM SCOTT HOEN
CLERK

IN THE FIRST JUDICIAL DISTRICT COURT By Deputy
OF THE STATE OF NEVADA IN AND FOR CARSON CITY

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Defendants.

Lead Case No.: 24 OC 00018 1B

Dept. No.: II

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Defendant,

and

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Intervenor-Defendants.

Case No.: 24 OC 00021 1B

Dept. No.: II

BRAVO SCHRAGER LLP

1
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Defendants.

Case No.: 24 OC 00023

Dept. No.: I

BY

FILED IN ERROR
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Case No.: 24 OC 00029 1B

Dept. No.: I

23 **FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER**
24 **DENYING PLAINTIFFS' LEGAL CHALLENGE**
25 **TO INITIATIVE PETITION S-03-2024**

26 This matter came before this Court following four complaints, filed by four
27 different sets of plaintiffs, pursuant to NRS 295.061, challenging the legal sufficiency
28 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

1 "Secretary").

2 The Court, having reviewed the papers and pleadings on file, considered the
3 matter, being fully advised, and good cause appearing, finds, concludes, and orders
4 as follows:

5 **FINDINGS OF FACT AND CONCLUSIONS OF LAW¹**

6 **A. FINDINGS OF FACT**

7 **1. Initiative Petition S-03-2024**

8 On January 24, 2024, Kate Feldman, on behalf of Stop Predatory Lending NV,
9 filed the Petition with the Secretary. The Petition seeks to amend the Nevada Revised
10 Statutes by adding thereto a new Chapter, to be designated Chapter 604D:
11 Preventing Predatory Payday and Other Loans Act.

12 The Petition includes a description of effect as required by NRS 295.009(1)(b),
13 which reads, in full:

14 This measure addresses high-interest lending practices by
15 establishing maximum interest rates charged to consumers.

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

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

22 **2. Procedural History**

23 On January 26, 2024, Plaintiffs Nevadans For Financial Choice and Christina
24 Bauer (collectively, "Nevadans for Financial Choice" or "NFFC") filed a Complaint for
25 Declaratory and Injunctive Relief challenging the legal sufficiency of Initiative
26

27 ¹ Any findings of fact which are more appropriately considered conclusions of
28 law shall be treated as such, and any conclusions of law which are more appropriately
considered findings of fact shall be treated as such.

1 Petition S-01-2024, pursuant to NRS 295.061, and a Brief in Support of the
2 Complaint. Subsequently, on February 14, Plaintiffs Nevadans for Financial Choice
3 filed a First Amended Complaint timely adding Initiative Petition S-03-2024 to their
4 challenge.

5 On January 29, Plaintiff DailyPay, Inc. ("DailyPay") filed a Complaint for
6 Declaratory and Injunctive Relief challenging the legal sufficiency of both Initiative
7 Petition S-01-2024 and Initiative Petition S-03-2024, pursuant to NRS 295.061.

8 On January 29, Plaintiffs Preferred Capital Funding - Nevada, LLC and
9 Alliance For Responsible Consumer Legal Funding (collectively, "Preferred Capital")
10 filed a Complaint for Declaratory and Injunctive Relief challenging the legal
11 sufficiency of both Initiative Petition S-01-2024 and Initiative Petition S-03-2024,
12 pursuant to NRS 295.061.

13 On February 13, Plaintiffs ActiveHours, Inc. and Stacy Press (collectively,
14 "ActiveHours") filed a Complaint for Declaratory and Injunctive Relief challenging
15 the legal sufficiency of Initiative Petition S-03-2024, pursuant to NRS 295.061.

16 On or about February 22, the parties stipulated to, and the Court ordered, that
17 the filed suits be consolidated into one action to make the matter more efficient in
18 terms of judicial economy, and the parties agreed to a briefing schedule. After
19 briefing, the Court held hearing on the consolidated matters on March 22, 2024.

20 B. CONCLUSIONS OF LAW

21 1. The Petition Does Not Violate Nevada's Single Subject Rule

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23 ... [e]mbrace but one subject and matters necessarily connected therewith and
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6 attaching them to more attractive proposals or concealing them in lengthy, complex
7 initiatives (i.e., logrolling)." *Las Vegas Taxpayer Accountability Comte. v. City Council*
8 *of City of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009).

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15 Furthermore, and most recently, in *Helton v. Nevada Voters First PAC*, 138
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18 brought in separate initiative petitions, the proper consideration is whether the
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20 subject." *Id.*, 512 P.3d at 314. The Court found that "(b)oth categories of changes
21 proposed in the ... initiative concern the election process in Nevada and more
22 specifically how candidates for the specifically defined partisan offices are presented
23 to voters and elected." *Id.*, 512 P.3d at 314-15.

24 In this case, the Court finds that the primary purpose of the Petition is to limit
25 interest rates on consumer loan transactions, and that all components of the Petition
26 are functionally related and germane to that purpose. The Court finds that the
27 Petition limits consumer interest rates on the transactions it defines as loans to 36%
28 annually. Each of the provisions of the Petition either establish that limit, make

1 conforming or ancillary changes to other statutes, or—in the case of the Sections 10
2 through 14, provide enforcement mechanisms necessary and germane to the
3 operation of the Petition's purpose. Further, the Court finds that the Petition's text,
4 its description, and the arguments of the Proponents in briefing and at hearing of
5 effect confirm the Petition's primary purpose. Therefore, this Court finds that
6 Initiative Petition S-03-2024 does not violate NRS 295.009(1)(a)'s single-subject
7 requirement.

8 **2. The Petition's Descriptions Of Effect Is Legally Adequate**

9 Under NRS 295.009(1)(b), every initiative must "[s]et forth, in not more than
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11 or referendum is approved by the voters." The purpose of the description is to "prevent
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20 a change to the law regardless of the election's outcome." *Id.* (citing Nev. Const.
21 art. 19, § 1(3) (providing that, if the voters approve the referendum, the statute "shall
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4 This Court finds that the Petition's description of effect meets the
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14 NRS 295.009 requirement as the plain language of the description is straightforward,
15 succinct, and non-argumentative.

16 3. The Petition Does Not Contain An Unfunded Mandate

17 Article 19, section 2(1) of the Nevada Constitution provides that the initiative
18 process is "subject to the limitations of Article 19, Section 6, which "does not permit
19 the proposal of any statute or statutory amendment which makes an appropriation
20 or otherwise requires the expenditure of money, unless such statute or amendment
21 also imposes a sufficient tax, not prohibited by the constitution, or otherwise
22 constitutionally provides for raising the necessary revenue." As the Nevada Supreme
23 Court holds, Section 6 applies to all proposed initiatives. *Rogers v. Heller*, 117 Nev.
24 169, 173, 18 P.3d 1034, 1036 (2001). The primary purpose behind this requirement is
25 to ensure that no initiative is presented to the voters without funding provisions when
26 the initiative requires an appropriation or expenditure.

27 "[A]n appropriation is the setting aside of funds, and an expenditure of money
28 is the payment of funds." *Rogers v. Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036

1 (2001). "A necessary appropriation or expenditure in any set amount or percentage is
2 a new requirement that otherwise does not exist." *Id.*, 117 Nev. at 176. "[A]n initiative
3 makes an appropriation or expenditure when it leaves budgeting officials no
4 discretion in appropriating or expending the money mandated by the initiative—the
5 budgeting official must approve the appropriation or expenditure, regardless of any
6 other financial considerations." *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 890, 141
7 P.3d 1224, 1233 (2006).

8 Here, this Court finds that plaintiffs do not provide any evidence regarding the
9 expected unfunded expenditures or costs they insist come along with the Petition, but
10 rather argue that increased regulation must somehow necessarily increase the
11 workload of state personnel, and therefore will increase state expenditures in some
12 form. While the Court is not unsympathetic to that argument, Nevada Supreme
13 Court case law authority interpreting Article 19, Section 6 does not support
14 invalidating a proposed ballot measure on those grounds. This Petition does not
15 require specific enforcement procedures, creates no additional regulatory bodies or
16 agencies, and Plaintiffs cannot point to specific instances of mandatory, non-
17 discretionary appropriations that would have to be made should this Petition become
18 law. Therefore, the Court finds that Plaintiffs fail to meet the burden of showing that
19 the Petition violates Article 19, Section 6 of the Nevada Constitution.

20 **4. The Petition Does Not Violate Article 19, Section 3**

21 Under Article 19, Section 3 of the Nevada Constitution, proponents must
22 "include the full text of the measure proposed" with their initiative petition. Nev.
23 Const. art. 19, § 3. Plaintiffs DailyPay and Nevadans for Financial Choice make "full-
24 text" arguments against the Petition. This Court rejects plaintiffs' arguments and
25 finds that the Petition contains every provision that is proposed to be circulated for
26 signatures and to be considered by the electorate, and that therefore there is no violation
27 of Article 19, Section 3.

28 Furthermore, this Court rejects the other various challenges to the Petition's

1 legal sufficiency.²

2 **ORDER**

3 Based on the foregoing findings of fact and conclusions of law:

4 1. **IT IS THEREFORE ORDERED** and declared that Initiative Petition
5 S-03-2024 is legally sufficient.

6 2. **IT IS FURTHER ORDERED** and declared that Initiative Petition
7 S-03-2024 does not violate Nevada's single subject rule.

8 3. **IT IS FURTHER ORDERED** and declared that Initiative Petition
9 S-03-2024's description of effect meets the requirements of Nevada law.

10 4. **IT IS FURTHER ORDERED** and declared that Initiative Petition
11 S-03-2024 does not contain an unfunded mandate.

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24 ² To the extent other arguments were raised by any Plaintiffs, like DailyPay's
25 contention that the Petition is a referendum instead of an initiative, the Court has
26 considered them and finds them without merit. The Petition does not change a single
27 word of SB 290 (2023). Further, the Petition makes numerous amendments to Nevada
28 statutes, and creates new statutory sections; therefore the Petition is a statutory
initiative pursuant to Article 19, Section 2(3).

1 5. IT IS FURTHER ORDERED that plaintiffs' challenges to Initiative
2 Petition S-03-2023 are rejected, and Plaintiffs' complaints are dismissed with
3 prejudice as to their challenge to Initiative Petition S-03-2023.
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5 Dated this 12th day of April, 2024.
6

7 William A. Maddox
8 District Court Judge

9 Respectfully Submitted by:

10 /s/ Bradley S. Schrager
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