

**IN THE SUPREME COURT OF  
THE STATE OF NEVADA**

*Supreme Court Case No. 88557*

Electronically Filed  
Sep 05 2024 04:41 PM  
Elizabeth A. Brown  
Clerk of Supreme Court

---

NEVADANS FOR FINANCIAL CHOICE and  
CHRISTINA BAUER,

*Appellants,*

v.

KATE FELDMAN, ET AL.,

*Respondents.*

---

**APPELLANTS NEVADANS FOR FINANCIAL CHOICE AND  
CHRISTINA BAUER'S OPENING BRIEF**

On appeal from the First Judicial District Court  
The Honorable William A. Maddox (Ret.), Senior Judge  
District Court Case No. 24 OC 00018 1B c/w 24 OC 00021 1B, 24 OC 00023 1B,  
and 24 OC 00029 1B

---

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

*Attorneys for Appellants Nevadans for Financial  
Choice and Christina Bauer*

## NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

Appellant Nevadans for Financial Choice is a Nevada Political Action Committee. Appellant Christina Bauer is an individual. Pisanelli Bice PLLC is the only law firm whose attorneys are expected to appear for Appellants Nevadans for Financial Choice and Christina Bauer on appeal. Pisanelli Bice PLLC was also the only law firm who appeared for Appellants Nevadans for Financial Choice and Christina Bauer below.

DATED this 5th day of September 2024.

PISANELLI BICE PLLC

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

*Attorneys for Appellants Nevadans for  
Financial Choice and Christina Bauer*

## TABLE OF CONTENTS

NRAP 26.1 DISCLOSURE .....	i
TABLE OF AUTHORITIES .....	iv
JURISDICTIONAL STATEMENT .....	1
ROUTING STATEMENT.....	1
ISSUES PRESENTED.....	1
I. INTRODUCTION AND STATEMENT OF THE CASE .....	3
A. The Petition. ....	4
B. Appellants Brought Several Challenges Based on the Petition's Various Single-Subject Rule Violations, Full-Text Violations, and its Inadequate Description of Effect.....	7
C. The District Court Did Not Enjoin S-03-2024 From Being Circulated for Signatures. ....	10
II. SUMMARY OF THE ARGUMENT .....	10
III. ARGUMENT.....	12
A. This Court's Review is De Novo.....	12
B. S-03-2024 Violates the Single-Subject Rule.....	12
1. The Petition's provisions must be germane to each other.....	12
2. S-03-2024's purpose is excessively general, and thus violates the single-subject rule. ....	13
3. S-01-2024 violates the single-subject rule as its provisions constitute logrolling. ....	16

C. S-03-2024's Description of Effect is Wholly Deficient. .... 18

D. S-03-2024 Violates the Full-Text Requirement..... 20

IV. CONCLUSION.....22

CERTIFICATE OF COMPLIANCE.....23

CERTIFICATE OF SERVICE .....25

## TABLE OF AUTHORITIES

### Cases

<i>Chem. Specialties Mfrs. Ass'n, Inc. v. Deukmejian</i> , 278 Cal. Rptr. 128 (Ct. App. 1991) .....	14
<i>Educ. Initiative PAC v. Comm. to Protect Nev. Jobs</i> , 129 Nev. 35, 293 P.3d 874 (2003).....	18, 20
<i>Eivazi v. Eivazi</i> , 139 Nev., Adv. Op. 44, 537 P.3d 476 (Ct. App. 2023) .....	10
<i>Feldman v. Aguilar, et al.</i> , No. 88526, 2024 WL 3083271 (Nev. June 20, 2024).....	4, 15
<i>Harbor v. Deukmejian</i> , 742 P.2d 1290 (Cal. 1987).....	13, 15
<i>Helton v. Nev. Voters First PAC</i> , 138 Nev. 483, 512 P.3d 309 (2022).....	12, 16
<i>Las Vegas Taxpayer Accountability Comm. v. City Council of Las Vegas (LVTAC)</i> , 125 Nev. 165, 208 P.3d 429 (2009) .....	13, 14, 15
<i>Mervyn's v. Reyes</i> , 81 Cal. Rptr. 2d 148 (Ct. App. 1998).....	21
<i>Nevadans for Reprod. Freedom v. Washington</i> , 140 Nev., Adv. Op. 28, 546 P.3d 801 (2024).....	13, 16, 17
<i>Nevadans for the Prot. of Prop. Rights, Inc. v. Heller</i> , 122 Nev. 894, 141 P.3d 1235 (2006).....	16
<i>Schs. Over Stadiums v. Thompson</i> , No. 87613, 2024 WL 2138152 (Nev. May 13, 2024).....	22
<i>Wagner v. Evnen</i> , 948 N.W.2d 244 (Neb. 2020).....	15
<i>We Care-Santa Paula v. Herrera</i> , 42 Cal. Rptr. 3d 577 (Ct. App. 2006) .....	20, 21
<b>Statutes</b>	
NRS 295.009 .....	12, 13, 18
NRS 295.0575 .....	20

**Constitutional Provisions**

Nev. Const. art. 19 .....20

**Other Authorities**

*Preemption Issues Under Depository Institutions Deregulation and Monetary Control Act*, 28 A.L.R. Fed. 2d 467 (2008).....19

*The Depository Institutions Deregulation Act of 1980: A Historical Perspective*, *Economic Review* 3 (Feb. 1982) .....19

## **JURISDICTIONAL STATEMENT**

This Court has jurisdiction over this appeal as it from a final judgment, NRAP 3A(b)(1), as well as an order refusing to grant an injunction, NRAP 3A(b)(3). The judgment occurred on April 15, 2024, (4.AA.750), with notice of entry of judgment on April 16, 2024, (*id.* at 760). Appellants timely appealed on May 3, 2024, (5.AA.827).

## **ROUTING STATEMENT**

This case is retained by the Supreme Court because it involves a ballot question. NRAP 17(a)(3).

## **ISSUES PRESENTED**

1. Whether S-03-2024 violates the single-subject rule because its alleged purpose of "consumer debt relief" is excessively general such that almost any initiative petition could be made to fall within such a generic purpose?
2. Whether S-03-2024's inclusion of modifications to several types of distinct financial transactions under the guise of regulating payday loans constitutes logrolling by using the popularity of regulating payday loans to include other financial transactions?
3. Whether S-03-2024's description of effect is insufficient when it contains false and misleading statements and omits any reference—even general

references—to key provisions like opting Nevada out of major federal banking regulations that Nevada has followed for 40 years?

4. Whether S-03-2024 violates Nevada's constitutional full-text requirement where it includes only some of the proposed statutory changes with the Petition, but does not include redlines for every statutory amendment or abrogation it expressly makes?



## **I. INTRODUCTION AND STATEMENT OF THE CASE**

Nevadans' ability to propose ballot initiatives is a leading example of its citizens' democratic power. But because of that potent force, Nevada law imposes limitations to ensure each initiative is properly tailored, sufficiently clear, and gives signers adequate information to make an informed decision on whether to sign the petition. Thus, a petition must contain a single subject, cannot have an excessively general purpose, or otherwise "logroll" the public by using a popular provision to join less popular provisions that may not garner public support. Moreover, any petition must include a description of effect, which must provide an expansive view of what the petition seeks to do and how it seeks to accomplish those goals. Finally, to ensure that potential signers have sufficient information to make an informed decision whether to sign the petition, the petition must include the full text of the proposed changes in the law.

But S-03-2024 fails each of these requirements. Its stated purpose is excessively general such that a nearly unlimited amount of petitions touching on financial transactions could be made to fall within its ambit. Moreover, it improperly logrolls the public by focusing on what it calls "predatory payday loans" to encourage the signer to sign a petition regulating over 9 different types of transactions far beyond the scope of so-called payday loans. Further, the description of effect fails to give the necessary expansive view of the Petition and its effect.

Finally, S-03-2024 fails the full-text requirement as it does not include redlines of the statutory provisions it explicitly abrogates, thus robbing potential signers of the information and context necessary to determine whether to sign the petition.

This Court must reverse the district court and enjoin S-03-2024 from being circulated for signatures or submitted to the Legislature.

**A. The Petition.**

On January 24, 2024, Respondent Kate Feldman<sup>1</sup> filed S-03-2024 ("Petition" or "S-03-2024") with the Nevada Secretary of State.<sup>2</sup> (3.AA.449). The Petition proposes several sweeping amendments to multiple unrelated provisions of the Nevada Revised Statutes, beginning by enacting a new chapter: "Chapter 604D: Preventing Predatory Payday and Other Loans Act." (*Id.* at 450). The Petition focuses on "predatory payday lending," as it is replete with references to such loans and payday lenders. (*Id.* at 450-54). But after leading with the boogeyman payday

---

<sup>1</sup> While the Petition did not note that Stop Predatory Lending NV was the PAC promoting the Petition, (3.AA.449), the parties stipulated to add Stop Predatory Lending NV as a party, (*id.* at 473). "Feldman" collectively refers to Respondents Kate Feldman and Stop Predatory Lending NV. Similarly, because the Secretary of State took no position on the legal merits of the challenges to S-03-2024, (*id.* at 481-82), "Respondents" refers only to Feldman and Stop Predatory Lending NV.

<sup>2</sup> Feldman also filed a companion initiative, S-01-2024. (1.AA.8-32). S-01-2024 was substantively identical to S-03-2024 except that S-01-2024 included additional provisions that rewrote Nevada law regarding wage garnishment and collections. (*Compare id.*, with 3.AA.449-65). This Court recently concluded that S-01-2024 violated the single-subject rule. *Feldman v. Aguilar, et al.*, No. 88526, 2024 WL 3083271, at \*1 (Nev. June 20, 2024) (Order of Affirmance)

loans and payday lenders, the Petition slyly references "other high-cost loans" or other non-lending, financial transactions that it also encompasses. (*See id.*). The Petition asserts only three specific purposes: (1) "combatting predatory payday lending and other high-cost loans"; (2) "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 (3) "protecting law-abiding lenders from unfair competition by predatory, out-of-state entities." (*Id.* at 450).

But the Petition casts a far broader net than merely targeting payday loans. As Section 8 of the Petition makes clear, S-03-2024 covers a host of financial transactions far beyond payday loans. The Petition applies to "payday loans," "[h]igh-[i]nterest loans," "[t]itle loans," "[r]efund anticipation loans," "[c]onsumer litigation funding transactions," "[i]ninstallment loans," "[r]etail installment transactions," "[l]oans secured by a life insurance or annuity contract," and "[l]oans 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 [S]tate." (*Id.* at 452). And as S-03-2024 explains, these transactions are the tip of the iceberg. (*See id.* ("Notwithstanding any other provisions of law, *transactions subject to this chapter shall include, but shall not be limited to, the following (emphasis added)*)). And making clear that it extends far beyond payday loans, S-03-2024 purports to have Nevada opt out of the federal Depository

Institutions Deregulation and Monetary Control Act of 1980 ("DIDMCA"). (*Id.* at 455).

Yet none of these changes are detailed in S-03-2024's Description of Effect.

There, the proponents meagerly state that:

### **DESCRIPTION OF EFFECT**

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

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

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

(*Id.* at 460).

Further, the Petition makes several explicit changes to Nevada law, abrogating provisions establishing that other chapters govern specific financial transactions as well as provisions allowing lenders to charge various interest rates on different types of transactions. (*Id.* at 452-53). But the Petition does not include redlines to NRS 604A.220, NRS 604C.220, NRS CHAPTER 97.285, NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710, NRS 673.225, NRS 673.3272, AND NRS 677.730—

the provisions it explicitly abrogates. (*See id.*). Instead, it includes a sole addition to NRS 99.050(1). (*Id.* at 455-56).

**B. Appellants Brought Several Challenges Based on the Petition's Various Single-Subject Rule Violations, Full-Text Violations, and its Inadequate Description of Effect.**

Appellants Nevadans for Financial Choice and Christina Bauer (collectively, "Nevadans for Financial Choice" or "Appellants") filed suit, initially challenging S-01-2024, the companion petition to S-03-2024. (1.AA.1-2). After Feldman filed S-03-2024, the Petition at issue in this appeal, Nevadans for Financial Choice filed an amended complaint challenging both petitions. (3.AA.413). Nevadans for Financial Choice's lawsuit was consolidated with similar lawsuits brought by the other appellants, with Nevadans for Financial Choice being the lead case. (*Id.* at 471-73).

Nevadans for Financial Choice alleged that both petitions violated the single-subject rule, the full-text requirement, and contained misleading descriptions of effect.<sup>3</sup> (1.AA.4-6, 33-40; 3.AA.418-21, 466-68). As to S-03-2024, Nevadans for Financial Choice alleged it violated the single-subject rule as it contains about nine distinct categories of financial transactions as well as a catch-all provision that deals with far more financial transactions than the "predatory payday loans" the Petition

---

<sup>3</sup> As the other plaintiffs in the consolidated cases are appellants in this appeal, Nevadans for Financial Choice does not reiterate the arguments those parties made below.

purports to focus on. (1.AA.38).<sup>4</sup> Moreover, it argued that S-03-2024 logrolled potential signers as it used the guise of regulating payday loans and payday lenders to convince potential signers to impose a sweeping usury statute across almost every type of financial transaction that occurs in this state. (*Id.* at 39). And Nevadans for Financial Choice contended that the provision seeking to opt out of the DIDMCA was not related and germane to any of the other provisions in the Petition. (*Id.*).

As to the description of effect, Nevadans for Financial Choice argued that the description is not a "straightforward, succinct nonargumentative summary" but rather "a campaign advertisement purporting to tout the virtues of an usury law . . . in a misleading and non-forthright manner." (*Id.* at 40). The description of effect, as Nevadans for Financial Choice alleged, was defective for both what it included as well as what it omitted. Initially, S-03-2024 made several misleading statements, namely that "most consumer loans have no interest rate cap" and that it applies to enumerated transactions "and other loan types dependent on future earnings and income." (*Id.*). But neither contention has any support within the Petition itself. (*Id.*).

---

<sup>4</sup> While the initial brief focused on S-01-2024, both S-01-2024 and S-03-2024 are substantively identical absent the garnishment provisions of S-01-2024. (*Compare* 1.AA.8-32, *with* 3.AA.449-65). Thus, Nevadans for Financial Choice's brief in support of its amended complaint expressly incorporated the single-subject rule and description of effect arguments from its brief in support of its initial complaint in support of its challenge to S-03-2024. (3.AA.467).

But the Petition's description of effect also omitted several key effects. Specifically, it did not include the broad scope of the numerous financial transactions it purports to cover. (*Id.*). Nor did it include any mention of the proposed opt out from DIDMCA, much less any explanation of the significant consequences of so doing. (*Id.*). And as to the full-text requirement, the Petition fails to include the actual text of all the statutory changes it mandates in violation of the full-text requirement of the Nevada Constitution. (3.AA.467-68).

Feldman filed an omnibus opposition to the various appellants' complaints and briefs in support of their complaints. (*Id.* at 504). As to the single-subject rule, Feldman argued the Petition did not violate the single-subject rule because its provisions "are functionally related and germane to alleviating the worst effects of our modern culture of consumer debt," in relation to its "primary purpose" of a "program of consumer debt relief." (*Id.* at 517).

Turning to the description of effect, Feldman contended that S-03-2024's description is adequate because it "is straightforward," "succinct," "under 200 words," and lacks "any argumentative language." (*Id.* at 524). And as to the full-text requirement, Feldman argued that it is "absurd" to require petitions to include redlines of all the statutory changes they would make, and that S-03-2024 "contain[s] every provision that is proposed to be circulated for signatures and considered by the electorate." (*Id.* at 531-32).

**C. The District Court Did Not Enjoin S-03-2024 From Being Circulated for Signatures.**

The district court concluded that the Petition did not violate Nevada law.<sup>5</sup> Specifically, it found that the "primary purpose of the Petition is to limit interest rates on consumer loan transactions, and that all components of the Petition are functionally related and germane to that purpose." (4.AA.754-55). As to the description of effect, the court concluded that the description "is straightforward, succinct, under 200 words, and there is no basis for a finding of argumentative language." (*Id.* at 756). And turning to the full-text requirement, the court concluded, without citation to any caselaw, "that the Petition contains every provision that is proposed to be circulated for signatures and to be considered by the electorate." (*Id.* at 757).

**II. SUMMARY OF THE ARGUMENT**

The Petition violates several well-established provisions of Nevada law. First, the Petition violates the single-subject rule because its purpose is excessively general. The purposes both the Petition and its proponents asserted focus on crafting an overall program of debt relief. But as courts throughout the country—including this Court—have long recognized, excessively general purposes violate the single-

---

<sup>5</sup> The district court adopted verbatim Feldman's proposed order despite the Court of Appeals' recent admonishment of "the dangers inherent in the practice of adopting wholesale a litigant's proposed findings of fact and conclusions of law." *Eivazi v. Eivazi*, 139 Nev., Adv. Op. 44, 537 P.3d 476, 480 (Ct. App. 2023).



subject rule. A petition is excessively general when it is so broad that it may cover a near-unlimited amount of initiatives. Here, "debt relief" is so broad and general that nearly any petition purporting to touch on consumer finances may fall under its banner. And the purpose the district court manufactured also fails as the amorphous phrase "consumer loan transactions" similarly covers a nearly unlimited amount of petitions related to financial transactions.

Moreover, S-03-2024 also violates the single-subject rule by engaging in prohibited logrolling. The Petition focuses on a convenient boogeyman—payday loans and payday lenders—but then captures nearly 10 other specific types of financial transactions as well as a nearly unlimited amount of amorphous "other" transactions, including things such as consumer litigation funding—that are otherwise popular compared to payday loans. This bait-and-switch approach to initiatives constitutes quintessential logrolling.

Second, the description of effect is legally deficient. Despite her obligation to present an "expansive" view of the initiative in its description, Feldman instead focused only on three specific types of consumer financial transactions, ignoring the approximately six other specific types of transactions at issue. The description also completely omits any reference to opting out of DIDMCA, even though the massive ripple effects of such a decision would touch on nearly every aspect of Nevada's financial markets.

Third, as to the full-text requirement, the Petition fails as it does not include redlines to any of the statutes it expressly abrogates. And as courts have long made clear, mere reference to the statutes a petition abrogates is insufficient to satisfy the full-text requirement. In sum, Feldman fails to provide potential signers with the information necessary to intelligently decide whether to sign the Petition.

In light of these three independent grounds, this Court must reverse the district court order and enjoin S-03-2024 from being circulated for signatures or submitted to the Legislature.

### **III. ARGUMENT**

#### **A. This Court's Review is De Novo.**

Because the district court resolved this petition challenge absent any factual dispute, this Court reviews de novo the district court order approving S-03-2024. *Helton v. Nev. Voters First PAC*, 138 Nev. 483, 485, 512 P.3d 309, 313 (2022).

#### **B. S-03-2024 Violates the Single-Subject Rule.**

##### ***1. The Petition's provisions must be germane to each other.***

Under the single-subject rule, proposed ballot initiatives must "[e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto." NRS 295.009(1). An initiative complies with the single-subject rule if each provision "is functionally related and germane *to each other* and the initiative's purpose or subject." *Helton*, 138 Nev. at 486-87, 512 P.3d at 314 (emphasis added); *see also*

NRS 295.009(2) (providing that an initiative satisfies the single-subject rule "if the parts of the proposed initiative . . . are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative.").

The single-subject rule "promot[es] informed decisions" and "prevent[s] 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 Comm. v. City Council of Las Vegas (LVTAC)*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009); *see also Nevadans for Reprod. Freedom v. Washington*, 140 Nev., Adv. Op. 28, 546 P.3d 801, 807 (2024).

To resolve a single-subject challenge, this Court "must first determine the initiative's purpose or subject and then determine if each provision is functionally related and germane to each other and the initiative's purpose or subject." *Helton*, 138 Nev., at 486-87, 512 P.3d at 314. An initiative proponent "may not circumvent the single-subject rule by phrasing the proposed law's purpose or object in terms of 'excessive generality.'" *LVTAC*, 125 Nev. at 181, 208 P.3d at 439 (quoting *Harbor v. Deukmejian*, 742 P.2d 1290, 1303 (Cal. 1987)).

**2. *S-03-2024's purpose is excessively general, and thus violates the single-subject rule.***

S-03-2024's subject is excessively broad. As an initial matter, the district court disregarded the parties' arguments to construct a subject matter Respondents never

asserted. (*Compare* 3.AA.517 ("[I]n the case of these two Petitions, their primary purpose is an overall program of *consumer debt relief*." (emphasis in original)), *with* 5.AA.754 (finding S-03-2024's "primary purpose . . . is to limit interest rates on consumer loan transactions)).

Turning to the single subject that Respondents actually asserted—that S-03-2024's "primary purpose is an overall program of *consumer debt relief*," (3.AA.517 (emphasis in original))—it is excessively general. An initiative's purpose is excessively general when it is "so broad that a virtually unlimited array of provisions could be considered germane thereto and joined in [the] proposition." *Chem. Specialties Mfrs. Ass'n, Inc. v. Deukmejian*, 278 Cal. Rptr. 128, 133 (Ct. App. 1991), *cited approvingly in LVTAC*, 125 Nev. at 181, 208 P.3d at 439-40 (adopting the excessive generality requirement as part of Nevada's single-subject rule analysis).

Thus, a petition seeking to provide voters "with greater input into the City's redevelopment" fails as "voter approval" is an "excessively general" purpose. *LVTAC*, 125 Nev. at 181, 208 P.3d at 440. Similarly, a petition proposing to make statutory amendments to the state's budgeting process violated the single-subject rule as its purpose—"Fiscal affairs"—was excessively general because it "encompass[es] any substantive measure which has an effect on the budget" and "[t]he number and scope of topics germane to 'fiscal affairs' in this sense is virtually unlimited." *Harbor*,

742 P.2d at 1303-04, *cited approvingly in LVTAC*, 125 Nev. at 181, 208 P.3d at 439-40.

Here, like *LVTAC* and *Harbor*, S-03-2024's purpose is excessively general and overbroad. Consumer debt relief has no limiting feature. Much like *Harbor*, "[t]he number and scope of topics germane to" consumer debt relief is virtually limitless. Potential topics could include capping interest rates on loans, limiting the ability to garnish property to collect on debt (as Respondents attempted to do in their companion initiative that this Court already concluded violated the single-subject rule, *Feldman*, 2024 WL 3083271, at \*1), include mass debt forgiveness of loans, or revamp the regulations of lenders and collectors to eliminate or curtail the availability of certain types of debt. This excessively general purpose is the quintessential single-subject violation. *See LVTAC*, 125 Nev. at 181-82, 208 P.3d at 440; *Harbor*, 742 P.2d at 1303-04; *accord Wagner v. Evnen*, 948 N.W.2d 244, 254-55 (Neb. 2020) (invalidating a proposed initiative for "cannabis legalization" that effectively included at least eight actual subjects under the single-subject rule because the rule cannot be "circumvented" by selecting a purpose that is "so broad" as to evade "meaningful review").

But even the district court's proffered purpose is excessively general and is not supported by the text of the initiative. As S-03-2024 makes clear, it is not limited to consumer loans. (*See* 3.AA.452-53 (providing an illustrative list of "transactions

subject to this chapter" that the chapter "include[s], but shall not be limited to"). As the Petition makes clear, it captures a vast array of transactions far beyond the scope of consumer loans generally. (*See id.*) And by taking such a broad view of what constitutes "consumer loan transactions," S-03-2024 circumvents the single-subject rule by crafting a purpose applicable to almost any type of financial transaction, which it functionally acknowledges in its expansive, illustrative list of implicated transactions. As such, S-03-2024's purpose is excessively general in violation of the single-subject rule.

**3. *S-01-2024 violates the single-subject rule as its provisions constitute logrolling.***

Logrolling 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*, 138 Nev. at 488, 512 P.3d at 315 (quoting *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 922, 141 P.3d 1235, 1254 (2006)). It also occurs "when an unpopular provision is concealed in a lengthy, complex initiative." *Nevadans for Reprod. Freedom*, 546 P.3d at 807-08.

Here, S-03-2024's provisions constitute logrolling as the proponents attempt to capture every type of financial transaction under the guise of regulating the Petition's boogeyman—pay day loans. The Petition proposes to create "Chapter 604D: Preventing Predatory *Payday* and Other Loans Act. (3.AA.450 (emphasis added)). And S-03-2024's various provisions almost uniformly lead with fighting

"payday lending" while relegating the other financial transactions to amorphous references to "other loans." (*See id.* ("The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans."); *see also id.* ("Any deferred deposit transaction or payday loan")); *id.* at 451 ("This chapter applies to any payday lender or other person that . . . ."); *id.* at 452 (providing this chapter applies to "[d]eferred deposit loans (also known as payday loans))). As the Petition makes clear, it views the focus on payday loans as integral to its success. (*See id.* at 450-52).

But it actually captures at least nine distinct types of financial transactions, as well as a catch-all provision applying to any "[l]oans 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." (*Id.* at 453; *see also id.* at 452 ("Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following))). As such, by trying to regulate the entirety of financial transactions under the guise of regulating payday loans, S-03-2024 engages in logrolling. *Cf. Nevadans for Reprod. Freedom*, 546 P.3d at 808 ("Additionally, the initiative petition does not tie a highly attractive proposal to one that may struggle to get votes. Notably, Washington does not identify a popular provision that NRF is using to hide a less popular provision.").

**C. S-03-2024's Description of Effect is Wholly Deficient.**

Each petition must include a description of the initiative's effect that is "not more than 200 words." NRS 295.009(1)(b). The description of effect "must be a straightforward, succinct, and nonargumentative summary of what the initiative is designed to achieve and how it intends to reach those goals." *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2003). While a description of effect "cannot constitutionally be required to delineate every effect that an initiative will have," the proponent must still supply a description that "provides an expansive view of the initiative" that properly summarizes the initiative's goal and how it intends to do so. *Id.* at 37-38, 49, 293 P.3d at 876, 883-84.

Here, the description of effect does not contain the "expansive view of the initiative" the law requires. First, the description fails to identify the "expansive" scope of transactions it affects, instead listing only three of the specific types of loans the Petition affects. (3.AA.460). And the provisions highlighted are not so similar to those omitted that a potential signer would understand the expansive scope of the petition. (*Compare id.*, with *id.* at 452-53). Further, while the description of effect states the Petition covers "other loan types dependent on future earnings and income," no provision of the law the Petition creates includes any such limitation. (*Compare id.* at 460, with *id.* at 453).



Second, the description of effect fails to mention (much less explain) that the Petition opts out of DIDMCA. (*See id.* at 460). DIDMCA "has been hailed as the most important piece of banking legislation since the 1930s." Robert Craig West, *The Depository Institutions Deregulation Act of 1980: A Historical Perspective, Economic Review* 3 (Feb. 1982). Congress passed DIDMCA to create competitive balance between national- and state- chartered institutions: "The purpose of the DIDMCA (12 U.S.C.A. § 1831(d)(a)) granting federally insured state-chartered banks 'most favored lender' status was to achieve a measure of parity and competitive equity between national banks and state-chartered banks by permitting federally insured state-chartered banks to enjoy the same 'most favored lender' status as national banks." Barbara J. Van Arsdale, Annotation, *Preemption Issues Under Depository Institutions Deregulation and Monetary Control Act*, 28 A.L.R. Fed. 2d 467 (2008). In other words, for the last forty years, DIDMCA has allowed competitive banking practices between national- and state-chartered banks, which benefits consumers. And Nevada has adhered to this competitive parity for the last 40 years.

Yet despite this massive change it propose to Nevada law and the ripple effects this would cause on the competitive market place, the Petition's description of effect makes no mention—not one word—of opting out of DIDMCA or the associated impact. (3.AA.461). Even the brief description of the so-called

enforcement provisions omits any mention of this far reaching opt-out provision. (*See id.* ("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.")). Accordingly, the Petition's description of effect fails to "provide[ ] an expansive view of the initiative," and thus it fails as a matter of law. *Educ. Initiative. Pac.*, 129 Nev. At 49, 291 P.3d at 884.

**D. S-03-2024 Violates the Full-Text Requirement.**

Under Nevada law, each "initiative petition shall include the full text of the measure proposed." Nev. Const. art. 19, § 3. Such a requirement serves to give each potential signer the ability and "opportunity before signing to read the full text of the act or resolution upon which the initiative or referendum is demanded." NRS 295.0575(6). To satisfy the full-text requirement, the initiative must include the full text of the statutes it purports to enact, including redlines to the existing statutory scheme. *We Care-Santa Paula v. Herrera*, 42 Cal. Rptr. 3d 577, 578 (Ct. App. 2006) (collecting cases where various courts found initiatives or referendums invalid because the petitions "referenced portions of the general plan by heading and chapter number without including any part of the text" or "referred to the ordinance to be repealed only by number and title").

Here, the Petition does not conform with Nevada's full-text requirement as it does not provide the express provisions it abrogates to potential signers. The Petition

calls for a multitude of changes to Nevada law, expressly abrogating NRS 604A.220, NRS 604C.220, and NRS 97.285's exclusivity provisions regarding deferred deposit loans, high-interest loans, title loans, consumer litigation funding, and retail installment loans. (*See* 3.AA.452 (providing that the statutes created by the Petition control over NRS 604A.220, NRS 604C.220, and NRS 97.285)). Moreover, the Petition similarly expressly obviates any statutory authority to provide loans at greater than 36 percent interest without providing a redline of the necessary changes. (*See id.* at 452-53 (providing that the statutes created by the Petition control over NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710, NRS 673.225, NRS 673.3272, and NRS 677.730)).

But Feldman failed to provide redline versions of the proposed changes to those statutes, (*see id.* at 450-59), even though she included the redline for the Petition's proposed change to NRS 99.050, (*id.* at 455-59). Nor does the Petition otherwise inform the potential signers as to what those changes entail. (*See id.* at 450-59). As merely referencing the statutes to be abrogated by title is insufficient to satisfy the full-text requirement, *We Care-Santa Paula*, 42 Cal. Rptr. 3d at 578, the Petition does not "provide sufficient information so that registered voters can intelligently evaluate whether to sign the initiative petition and to avoid confusion," *Mervyn's v. Reyes*, 81 Cal. Rptr. 2d 148, 151 (Ct. App. 1998).

Or, in other words, the Petition does not "provide voters the complete context of the proposed measure so that they can understand what the law is now and what the law will be should they approve" of the Petition. *See Schs. Over Stadiums v. Thompson*, No. 87613, 2024 WL 2138152, at \*1 (Nev. May 13, 2024) (concluding that the referendum petition violated the full-text requirement because it provided only excerpts of SB1, the bill which it sought to overturn portions of, instead of the full text of SB1). As such, it violates the Nevada Constitution's full-text requirement.

#### **IV. CONCLUSION**

This Court should reverse the district court's order and enjoin S-03-2024 from being circulated for signatures or submitted to the Legislature.

DATED this 5th day of September 2024.

PISANELLI BICE PLLC

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

*Attorneys for Appellants Nevadans for  
Financial Choice and Christina Bauer*

## CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Office Word 2007 in size 14 font in Times New Roman.

I further certify that I have read this brief and it complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, and contains approximately 4,596 words.

Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, including NRAP 28(e)(1), if applicable, which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to

///

sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 5th day of September 2024.

PISANELLI BICE PLLC

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

*Attorneys for Appellants Nevadans for  
Financial Choice and Christina Bauer*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice, PLLC, and that on this 5th day of September 2024, I electronically filed and served by electronic mail a true and correct copy of the above and foregoing **APPELLANTS NEVADANS FOR FINANCIAL CHOICE AND CHRISTINA BAUER'S OPENING BRIEF** to all parties registered for electronic service:

/s/ Cinda Towne  
An employee of Pisanelli Bice PLLC