

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Eightieth Session
March 20, 2019**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 1:15 p.m. on Wednesday, March 20, 2019, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Nicole J. Cannizzaro
Senator James Ohrenschall
Senator Chris Brooks
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Heidi Seevers Gansert

GUEST LEGISLATORS PRESENT:

Senator Yvanna D. Cancela, Senatorial District No. 10

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Committee Policy Analyst
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Tennille K. Pereira, Legal Aid Center of Southern Nevada
George E. Burns, Commissioner, Division of Financial Institutions, Department of
Business and Industry
Bailey Bortolin, Nevada Coalition of Legal Service Providers
Zach Conine, State Treasurer, Office of the State Treasurer
Barbara Paulsen, Nevadans for the Common Good
Barry Gold, AARP

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Jim Sullivan, Culinary Workers Union, Local 226
Reverend Sandy Johnson, Nevadans for the Common Good
Leesha Nush
Benjamin Edwards
Mackenzie Baysinger, Human Services Network
Shane Piccinini, Food Bank of Northern Nevada
Lynne Keller, Opportunity Alliance Nevada
Christine Saunders, Progressive Leadership Alliance of Nevada
Patti McGuire, Nevadans for the Common Good
Sarah Adler, Nevada Coalition to End Domestic and Sexual Violence
Izzy Youngs, Nevada Women's Lobby
Will Bradley, United Veterans Legislative Council
Tony Yarbrough, Veterans of Foreign Wars
Brian McAnallen, Opportunity Village
Peter Guzman, Latin Chamber of Commerce
Susan Brager
Dr. Glories Powell, Dollar Loan Center
Alisa D. Nave-Worth, MultiStates Associates, Inc.
William C. Horne, Advance America Cash Advance Centers, Inc.; Enova
Andrew Morrison, Brundage Management
Sean Higgins, Dollar Loan Center
Candise Tracy
Gloria Diaz
Dan Kearney, Senior Vice President/Market Manager, Entercom Radio
Douglas Diaz, Jr.
Maria Garcia
Joe Gomez
Keith Lee, Community Loans of America
Cyrus Hojjaty

CHAIR SPEARMAN:
I will open the hearing on Senate Bill (S.B.) 201.

[SENATE BILL 201](#): Revises provisions governing loans. (BDR 52-568)

SENATOR YVANNA D. CANCELA (Senatorial District No. 10):
I will begin by walking you through the section of the *Nevada Revised Statutes* (NRS) S.B. 201 deals with, which is NRS 604A, and the different kinds of loans covered by that chapter.

There are four different kinds of loans covered by NRS 604A. The first type is a deferred deposit loan, which is traditionally referred to as a payday loan. In this type of loan, a borrower usually pays a fee to get an advance on his or her next paycheck for a short period of time, usually 14 days. The second type is a high-interest loan. These are loans longer than a traditional payday loan that charge 40 percent interest or more. They typically do not require access to a borrower's bank account, and they are typically loaned for 90 days. The third type is a high-interest installment loan. They have an interest rate between 40 percent and 199 percent and usually average 150 days. A lender can check a borrower's credit and make reports to credit bureaus before issuing such a loan. The last type is a title loan. They are secured for between 30 and 210 days, and they require borrowers to surrender the title to their vehicles until the loan is paid in full. It is important to note that there are different kinds of loans within the chapter, but in essence they are all short-term high-interest loans.

The Pew Research Center did a study on payday loans and similar products, and it is important to keep their findings in mind as we go through the bill. They found that a typical payday loan is \$375 and due in full in 2 weeks. With fees, the lump sum payment is about 36 percent of the borrower's paycheck. Most payday loans are taken out to cover shortfalls created by paying back a previous payday loan. The average borrower ends up in debt for nearly 6 months and pays more than \$520 in fees for a loan of \$375. You will hear today that this is not always the case, and that is true. However, when these loans go bad, they go really bad for borrowers. That is why this bill has been brought forward.

TENNILLE K. PEREIRA (Legal Aid Center of Southern Nevada):

I am a consumer litigation attorney at the Legal Aid Center of Southern Nevada. I have written testimony ([Exhibit C](#)) describing my experiences with people caught on the debt treadmill.

I will be talking about the Military Lending Act (MLA) provisions included in S.B. 201. In 1998, I enlisted in the U.S. Navy. I was on active duty and stayed with them through 2008. During my 10 years with the Navy, I spent time in San Diego, California, and fell into a debt cycle myself. I have personal experience with this issue prior to the passage of the MLA and can tell you some of the problems that brought it about. Payday loan institutions positioned their storefronts right outside the gates of the base. Generally, most of us were brand new; we were young, we were inexperienced with handling credit and we

had steady paychecks for the first time. When things did not go right, or we did not plan ahead and we needed some extra cash to get us to the next payday, those lenders were right there, ready and willing to give us that loan. I found that when I got paid, I could not meet my expenses for the next two weeks until the next payday. It went on and on and on. One result was that it compromised my financial stability and my ability to have a security clearance in the military, and thus it compromised the military's readiness to deploy me.

Because these problems were so widespread in the military, the U.S. Congress passed the MLA in 2006. It was originally enacted by a bipartisan Congress and signed by President George W. Bush. The MLA was enacted to protect service members and their families from predatory lending because of the threat it posed to national security and military readiness. Soldiers caught up in the debt cycle were not prepared to deploy.

The MLA extends important safeguards to service members on active duty, as well as their spouses and dependents, in the areas of financial management and consumer credit. It protects these covered borrowers against certain predatory lending abuses involving credit cards, payday loans, car title loans, tax refund anticipation loans, deposit advance loans, installment loans and unsecured open-ended lines of credit. Protections include a prohibition against borrowers being charged an annual percentage rate (APR) of interest greater than 36 percent. Additionally, it provides optional safe harbor from liability for certain procedures creditors may use in connection with identifying covered borrowers. It prohibits certain loan terms, such as prepayment penalties, mandatory arbitration clauses and certain unreasonable notice requirements. It also restricts loan rollovers, renewals and refinancing by some types of creditors.

Recently, the Consumer Financial Protection Bureau (CFPB) decided to stop enforcing the MLA. The U.S. Department of Defense was not consulted and has spoken out against this decision. In addition, U.S. Senator Catherine Cortez Masto and Nevada Attorney General Aaron Ford voiced their concerns about this decision. We are attempting to address this problem by codifying some provisions of the MLA in Nevada statutes.

Section 3 of S.B. 201 defines "covered service member" as an active duty member of the armed forces who is under a call or order to deploy with a military unit, or an individual in support of a military operation, for a period of

not less than 30 days, or a member of the National Guard and Reserve on active duty orders.

Section 4 of the bill defines "dependent" as a spouse; a child under the age of 21; a child under the age of 23 who is enrolled full time at an approved institution of higher learning; a child of any age who is incapable of self-support due to mental or physical incapacity that occurred while the person was a dependent; a parent or parent-in-law who resides in the household of the covered service member; or an unmarried dependent under certain circumstances.

Sections 5 through 7 and 15 of the bill address deferred deposit loans, high-interest loans, title loans and installment loans, commonly referred to as payday loans. Similar provisions in sections 17 through 21 of the bill address installment loans. These sections adopt the language of certain provisions of the MLA, including prohibiting a lender from charging a covered service member or dependent an APR greater than 36 percent, requiring a lender to make certain disclosures before extending certain types of consumer credit to a covered service member or dependent, and prohibiting certain additional loan terms in a transaction with a covered service member or dependent.

Sections 11 and 12 of S.B. 201 require the Commissioner of the Division of Financial Institutions (FID), Department of Business and Industry, to adopt regulations to administer, carry out and enforce these provisions.

SENATOR CANCELA:

The next portion of the bill, sections 8 and 9, deals with the electronic enforcement system (EES) database. The impetus for this came directly out of a performance audit of the FID ([Exhibit D](#)) by the Legislative Counsel Bureau's Legislative Auditor in 2018. The findings were striking. They indicated that nearly a third of Nevada payday lenders have received less than satisfactory ratings from State regulators over the last five years. The FID performed 1,447 examinations of businesses and found 2,156 violations of State laws and regulations. In its recommendations, the audit noted that a centralized tracking system would be of benefit to the borrower, the lender and the State. As stated in the "Key Findings" section:

A centralized tracking system for payday loans can be of significant value to the [FID], its licensees, and Legislators. A database would

assist licensees with managing loans and determining loan eligibility. It would also help licensees comply with state payday lending laws and help consumers avoid becoming overloaded with debt. Additionally, it would help the [FID] identify irregular lender activity and serve as an information system for staff preparing for an examination. A centralized tracking system would provide regulatory oversight and collect statistical information on licensees providing loan services.

I have distributed a chart ([Exhibit E](#)) outlining details of the centralized payday loan databases of 13 other states. Those states worked with their state regulators to track regulatory compliance and enforce current laws on borrowers. The chart includes where in each state's statutes the databases are found, the fees associated with those databases and the primary function of the database. In those 13 states, the short-term high-interest loan industry has continued to operate.

This EES database is a tool for the State to more efficiently enforce existing consumer protections. It will not be accessible to anyone except State regulators who already have a right to this information. The audit in [Exhibit D](#) stated that this efficiency will also reduce overhead costs to the State.

Sections 12 and 13 of [S.B. 201](#) eliminate provisions that undermine existing consumer protections. This language is there because of the inability of our current law to enforce. The enactment of an EES would render these provisions unnecessary.

Section 8 of the bill outlines how the EES will work. In short, the FID Commissioner will develop, implement and maintain the new system, which requires licensees to report each deferred deposit loan, title loan and high-interest loan. The EES covers all types of loans covered in NRS 604A.

The bill requires the Commissioner to contract with a vendor or service provider to implement and maintain a database from which reports can be run. It requires lenders, at the time of a loan, to enter the information about the borrower and the transaction into the EES database. This information includes the date of the transaction, the APR and any payment default or repayment plan once the loan is paid in full. The vendor operating the EES database will collect fees from lenders to pay for the operation and administration of the EES database. The bill

requires the information in the EES database to be confidential, just as the information collected today from existing regulations is confidential. The bill requires the FID Commissioner to adopt regulations concerning the EES database, including specifications, reporting standards and vendor fees.

MS. PEREIRA:

I represent a number of clients through the Legal Aid Center who have fallen victim to the debt cycle. I see a pattern: a person has a shortfall, gets a payday loan and pays it off, then another shortfall comes along and the person gets another payday loan. Soon the person is unable to make the payment on the latest loan. The person then goes to the lender, and the lender says, "I'll give you a new loan to pay off the old loan, and then you'll avoid default and we'll maintain our good relationship." Eventually, the person cannot make payments on those two loans and goes to another lender for another payday loan. It just snowballs out of control until the person is buried in debt. At that point, the person comes to me, and I look for violations of NRS 604A. Often we cannot find a violation because lenders do not see the other loans that are out there before they give a borrower a new loan. We are finding scenarios where the current enforcement tools of the FID are not effective. They will not catch those issues, and they cannot prevent those problems.

I believe this loan eligibility check system will prevent these problems from happening and allow the consumer protections that are already in statute to protect consumers as they were intended to do.

I want to make it clear that S.B. 201 does not propose any new consumer protections. It simply provides a loan eligibility check system. When a borrower applies for a loan, the lender enters the information into the system, and it tells the lender whether the loan complies with statute or not. The bill does not add new consumer protections or lender restrictions. It is simply making sure any new loans comply with current law.

There are two main situations that current enforcement tools are not effective at preventing and which are putting borrowers into the debt cycle. The first is borrowers using more than one lender. Where lenders do not see the other lenders a borrower has loans with, they are not doing anything wrong by giving a borrower a loan. The full financial picture is not visible to anyone. When new lenders give loans under these circumstances, they are not necessarily bad actors, but Nevada protections have been violated because the borrower's loans

now exceed what the person can repay. If the EES database was in place, the second loan would have been denied, and the borrower would not have been subsequently stuck in that debt cycle.

The second situation is rollovers. When a borrower goes to a lender and says, "I can't afford to pay off this loan," the lenders often say, "We'll write a new loan to pay off the old loan." This is a rollover and extension, which is not allowed under current law. We allow high interest rates because these are short-term loans. They are high-risk loans to the lenders, so to justify the expense, the interest is much higher. When these loans are rolled over time after time after time, they are no longer short-term loans. They end up being long-term loans at interest rates that are unheard of for any type of long-term financial product.

Rollovers are not being caught by the current enforcement tools because of the way the loans are written. When a client says to me, "I have four different loans from the same lender, but they were paid off by the other loans," I have to have them bring in all those loan agreements. I have to line them all up and get all the payment history. It is a whole investigation because nothing on the face of the second, third, fourth or fifth loan contract says that it paid off another loan. When the FID comes in, they are not going to see that on the contract. All they will see is a loan contract. They will look to see that it complies with the provisions of the statute, but they will not see that it is a rollover.

There is another situation I want to address. It has been brought up that borrowers have not been filing a lot of complaints with the FID. There are a number of reasons for this. Using more than one lender is not necessarily a violation of statute. As I mentioned, when lender two does not see lender one, making a second loan does not violate statute. We would not send a borrower to make a complaint about this situation because no violation has occurred.

Borrowers also do not understand the consumer protections in Nevada statute. Typically, when you hear the word "default," you think it is a negative thing; no one wants to be in default on a loan. However, there are consumer protections for people in default with payday loans. There are protections that provide for a lower interest rate and/or a longer time to pay. It is an exit ramp out of the debt cycle. When a lender gives the borrower a new loan to pay off the old loan instead of having them go into default so they can pay it off in an affordable way, the borrower does not get those consumer protections. Sadly, consumers

do not know this. They also do not know that if lenders give them a new loan, they are violating statute. They are not going to complain to the FID about that.

Also, borrowers are embarrassed. They have taken out these loans and taken a big risk with their own financial security, and they are embarrassed. What they feel is, "I took out these loans; I owe them." That is their attitude when they come to me for help. "What can I do? How can I get out of this? How do I negotiate with these lenders? Help me!" In [Exhibit C](#), you will see the story of a woman with four payday loans from three different lenders. She had a pattern of using payday lenders to get her through. But if one thing went wrong, the entire house of cards was going to come crashing down. Sure enough, eventually one of the lenders put the payment through before her paycheck was deposited. There was a shortage, and then there were fees from the bank, and then there were fees from the lender. Then the next lender put their payment through, and it just snowballed out of control to the point where she could not meet any of her obligations, and she ended up being sued. That is when she came to us and said, "What can I do?" Unfortunately, two of the lenders had done nothing wrong because they did not know about the first lender that had two of the four loans.

At that point, I negotiated with the lenders to try to keep the woman out of bankruptcy. Her entire financial security was compromised by the debt cycle. Had the EES database been in place, she would have been stopped at the first loan. If she could not pay that loan, she would have been protected by provisions in current statute. Senate Bill 201 allows our current consumer protections to work the way they were intended to work.

In addition to the clear benefits and protections for consumers in this bill, there are also benefits to lenders. Lenders do not benefit when borrowers get into a debt cycle and cannot pay any of their loans. Lenders want to be paid back. We do not want consumers going into default, having numerous loans that they cannot pay and facing bankruptcy. That does not benefit anyone.

The bill also helps lenders ensure they are in compliance with State law. The lender enters the loan information into the EES database and learns instantly whether the loan complies or does not. The bill also levels the playing field with competitors. You will hear a lot about bad actors. Lenders will say, "We are not the bad actors; those companies are." That is not what this is about. This is

about making sure the laws are being complied with across the board and that consumer protections are acting as they were intended to protect consumers.

Finally, S.B. 201 benefits the State. The obvious benefit to the State is that it improves the State's oversight efficiency and ability. It prevents problems from happening in the beginning. The FID chases lenders that are acting poorly on the back end of the loan process, but that does not protect consumers up front. This bill gives the FID and the State the ability to protect consumers in an efficient way.

SENATOR CANCELA:

Section 9 of S.B. 201 deals with materials at the storefronts of short-term high-interest loans. It requires lenders to carry information created by the Department of Health and Human Services related to debt relief and alternative programs surrounding public assistance.

I will conclude by saying two things. First, S.B. 201 is not in any way intended to eliminate the short-term, high-interest loan industry. There is truth to the idea that consumers seek these loans because there are no other places for them to seek out capital. It is important that when folks are in that situation, they receive the full protection of the law. The laws are already on the books, and they should be afforded those protections. Second, we will hear today from a lot of Nevada businesses that have created jobs and are doing good work in our State. This bill is not a slight on them or their business practices. Rather, it is an attempt to ensure that we have enacted the recommendations of [Exhibit D](#) and that consumers are protected at every step of the process in order to enhance everyone's financial stability in Nevada.

SENATOR SETTELMAYER:

I have been here a long time, and it seems like every Session we have bills related to this industry. I agree that there are valid reasons to have these types of loans. Why are we continuing to tamper with these laws? I remember putting in the concept of the safe harbor that is being removed in sections 12 and 13 of the bill. Why are we taking those out?

SENATOR CANCELA:

Those provisions were put in place without an electronic enforcement mechanism. If the EES database is enacted, those provisions become irrelevant. I have spoken to a number of lobbyists for payday lenders and asked for

language that would reflect the EES database in the bill to enhance this language and have it reflected in the rest of the bill.

SENATOR SETTELMAYER:

I appreciate that, but I respectfully disagree. The language being removed in section 13 of S.B. 201 states, "A licensee who operates a high-interest loan service is not in violation of the provisions of this section if the customer presents evidence of his or her gross monthly income to the licensee" I have no idea why an electronic service would make this irrelevant. If someone shows you 12 pay stubs showing the person has had a job for the last year, you are taking it on good faith that the person still has that job. That person could be lying to you and might have been fired three minutes ago. I do not see how your electronic system is going to capture the fact that the person just got fired. The safe harbor provision protected these businesses for good faith, when they took the person's word they were still employed. How would the EES database show they just got fired?

SENATOR CANCELA:

You are correct. The same level of trust is necessary between the borrower and the lender. There is no way to know if an individual was fired three minutes before coming into the storefront. The information can still be captured by the lender; it would just be captured electronically. The EES database would allow lenders to capture information ensuring borrowers are being truthful in disclosing their financial history. The technicalities of this would be better answered by Commissioner Burns, who is involved with these matters every day.

GEORGE E. BURNS (Commissioner, Division of Financial Institutions, Department of Business and Industry):

Safe harbor covers behavior that is basically fraud on the part of the borrower. Fraud is always an affirmative defense for any lender. For that reason, the safe harbor provision is not necessary, because the borrower's fraud will be the lender's protection in any kind of legal action.

SENATOR SETTELMAYER:

If we admit fraud occurs, I see no reason to take the safe harbor provision out of statute. It provides an additional layer of protection, since you are already admitting it would be fraud.

My second question is on section 15 of S.B. 201. It establishes the concept that lenders cannot go beyond 36 percent interest, and there are other statutes that set the limit at 199 percent. Is this fee in section 8 of the bill going to be counted as part of that percentage, or is it in addition to it? How does that affect the percentage of the number in section 15 of 36 percent? How is the business supposed to calculate that?

MR. BURNS:

I think you are referring to the 25 percent rule, in which payments cannot exceed 25 percent of the gross income of the borrower. All fees, as well as the interest that will be charged, are included in the determination of whether payment exceeds 25 percent of gross income.

SENATOR SETTELMAYER:

No, that is not what I am talking about. In section 15, subsection 2, it states, "A creditor shall not charge an annual percentage rate of greater than 36 percent."

MR. BURNS:

That is in relation to the MLA. It concerns service members only.

SENATOR SETTELMAYER:

Is the fee part of that 36 percent?

MR. BURNS:

For military lending, yes.

SENATOR SETTELMAYER:

I am bothered by section 8 of the bill, which establishes a fee to be collected by a vendor to institute a program. To me, that is a manipulation of the Gibbons Tax Restraint Initiative. To me, this should clearly be a two-thirds bill, and this is a creative way around that requirement. I am bothered by that and cannot support a concept that violates the Tax Restraint Initiative. If it was a fee, we could have the discussion and pass it. I find it very problematic that you are calling it a fee but having it collected by a private vendor.

SENATOR BROOKS:

I have questions about the audit in [Exhibit D](#) and what it has to say about examination violations. From 2013 to 2014, it looks like there were significant

drops in satisfactory examinations, and then steady increases in satisfactory examinations over the next 4 years. From 2016 to 2017, violations dropped dramatically in the industries covered by NRS 604A. Do you have any idea what would cause those kind of swings? What changed in 2013? What would cause such a dramatic drop in violations between 2016 and 2017 in just those areas?

MR. BURNS:

It has a lot to do with economic cycles. During the last recession, we saw violations increase because there were more people trying to get these types of loans. The other variable is the increasing enforcement and focus that our examiners were bringing to examinations. I take the fact that violations are decreasing as a compliment to the work we are doing at the FID, as well as a compliment to the lenders who have increased the level of their compliance awareness and the way in which they conduct their businesses.

SENATOR BROOKS:

When a borrower is at a storefront, are they made aware of what the FID does and their ability to make a complaint?

MR. BURNS:

Yes. Every lender is required to post a notice in a conspicuous place in their lobbies where consumers can see that they can file complaints, including our address and phone number. That is a posted disclosure for all borrowers.

BAILEY BORTOLIN (Nevada Coalition of Legal Service Providers):

We have seen at the Legal Aid Center that people often do not file complaints because by the time they reach out to us, they are in a desperate situation. Often, we do not end up litigating because we send a demand letter stating, "This loan is not in compliance with Nevada law," and the lender says, "Oops, you're right, we'll just go away." The borrower is relieved to be made whole. They are happy to have the situation behind them and want to move past it as soon as possible. This eliminates the need to create a public record.

I wish every violation we see went into the complaint system so you could have it before you, but that is not what people want. The ones you see are those where people felt there had been a true injustice and they want to move forward publicly. Often, they just want to know the fastest way to have this behind them, and that means not filing a complaint because a simple demand letter will get them out of the situation.

SENATOR OHRENSCHALL:

Mr. Burns, as Commissioner, you oversee banks, money transmitters and different depository type businesses. How do you compare the regulation between these lenders and the other types of financial institutions you regulate?

MR. BURNS:

That comparison is difficult, like comparing apples and oranges. Other types of lenders, like banks, credit unions, thrifts and so forth, are not only regulated by the State, but they also have a federal regulator if they are federally insured. The totality of law and regulation that has been accumulated over the hundreds of years banks have been in existence is quite profound and very detailed. By contrast, NRS 604A type lending has only been around in Nevada since the late 1980s. There has not been decades or millennia to accumulate the kind of regulations and laws we see in banking. That is part of the process we are in now. As we go through time, we are finding ways we need to improve and increase how we regulate and how we enforce.

SENATOR OHRENSCHALL:

If this bill was to pass, how would the EES database provide information? You brought up the example about the person who is trying to take out a second or third loan to cover the first loan and then gets deeper in debt. Would this prohibit taking a second loan to repay the first? Can you walk me through that?

MS. PEREIRA:

When a lender enters a new loan into the EES database, the system will tell the lender if the borrower has another loan out. If that is the case, the new loan does not comply with Nevada law. Until that first loan is paid off, the borrower cannot get a new loan. This stops the debt cycle and keeps it from ballooning out of control.

SENATOR OHRENSCHALL:

Is that under section 8 of the bill?

MS. PEREIRA:

Correct.

SENATOR SEEVERS GANSERT:

When Senator Cancela was going over the different types of entities in NRS 604A, it sounded like there was at least one that was regulated at a

federal level. Should they be in this bill, since they already have regulations at the federal level?

MR. BURNS:

I do not understand the question. Which one do you believe is federally regulated?

SENATOR SEEVERS GANSERT:

I thought the longer term installment loan was federally regulated, the one where they did credit checks. Are any of the different types of entities in this chapter regulated at a federal level?

MR. BURNS:

All of these loans are regulated at the federal level to a certain degree. Certain federal laws, such as the Equal Credit Opportunity Act and the Fair Credit Reporting Act, apply to every type of lender in the U.S. As such, the ability to enforce those laws had been given to the CFPB to augment state enforcement of these types of things. However, we have seen a reduction in the CFPB's inclination to actively enforce these laws. It has thus been more incumbent upon the state regulators to do so.

SENATOR SEEVERS GANSERT:

Do you have the authority to enforce the laws right now? It sounds like the federal government has taken that role in the past, but they are not doing as much as they were. Is that part of the reason for this legislation?

MR. BURNS:

Yes, I have the power to enforce, but I do not necessarily have the ability to do so. This bill is intended to improve the tools and augment the resources that make it possible for us to enforce.

SENATOR SEEVERS GANSERT:

I was looking at the audit findings in [Exhibit D](#), but I could not find the count for each year. Are you auditing the same number of institutions every year, or does that vary?

MR. BURNS:

The statute requires that all NRS 604A lenders be audited or examined annually. The number is the same every year.

SENATOR SEEVERS GANSERT:

So the number of institutions does not change? Do we have more or fewer over the years, or are they pretty much flat?

MR. BURNS:

The number has been fairly stable. We have seen some decreases in the NRS 604A lending area as far as the number of licensees due to consolidation and so forth. We currently have almost 500 locations in the State that do this type of lending. The number has hovered there for the last five to ten years.

SENATOR SEEVERS GANSERT:

It looks like the number of violations has gone down in the last three years.

My last question is about the safe harbor provisions. If safe harbor is not in statute, do you have to go through a judicial process, or is there a simpler process if it remains in statute?

MS. BORTOLIN:

As Commissioner Burns says, if a borrower is truly a bad actor, lenders have the fraud defense. In addition, we have seen that bad actor lenders see this as a dropout of consumer protections. There are lenders who will give a borrower something that says, "Say you have no outstanding loans, and you can get this loan, wink wink." When borrowers are in desperate situations, that is what they do. Not all lenders are doing this, and I am not accusing them of that, but it is something we see from the bad actors.

SENATOR SEEVERS GANSERT:

Mr. Burns, when you did the audit, did you see repeat violations by the same entities? Are there just a few, or is it widespread, and at what level?

MR. BURNS:

We are on record as saying 10 percent of our licensees take 90 percent of our enforcement time. Are they the same ones every time? Not always. We try to use progressive discipline to bring them into compliance as opposed to just fining them. Our objective is to get them in compliance rather than to put them out of business. That number changes from time to time because of the changes in the industry, ownership of particular business entities and other factors. There are a lot of variables.

SENATOR SEEVERS GANSERT:

So when you tell them about the violations, they have come into compliance for the most part, is that right? Do you have any problems where businesses stay out of compliance?

MR. BURNS:

The majority of them, when an issue is brought to their attention, correct that issue and come into compliance, which is the way it is supposed to work. We have others that will object to the findings of violation, which then creates a situation in which we have to take enforcement action to administrative law that leads to lawsuits. They get us into district court, which then drags us into the Nevada Supreme Court. We have been in the Supreme Court with this industry five times since I have been in this position. We are currently there right now. So yes, we do have folks who buck the system.

CHAIR SPEARMAN:

Mr. Burns, I heard you say that there are some lenders who are regulated by federal statute, and where there are gaps, State law comes into play. There are some lenders who operate offshore, and they contact consumers via the internet. Will S.B. 201 help protect consumers in that area as well?

MR. BURNS:

The issue of borrowers going out of state or offshore is a bit of a canard. Any loan made by an unlicensed entity is unenforceable in Nevada. The offshore people know that, so the volume of business going offshore is relatively low. When a Nevada borrower gets caught up in something like that, the first thing we tell them is, "They're not licensed here; they can't enforce that loan. Just go home and forget about it."

CHAIR SPEARMAN:

I am concerned that borrowers may be signing forms without reading or understanding what they are signing. Probably 98 percent of us have done this at one point in time. You get a form that tells you to read this and then sign, and you sign without reading. Maybe it is just my glasses, but in the last ten years it looks like the font is getting smaller and smaller. Are there any protections for people who do not understand what they signed? If we are out to protect the consumers, I am trying to make sure we are casting a broad net and able to do that as well.

I am also concerned about offshore lenders. We do not know who they are, and borrowers may not know that if they get a loan from that entity, it is not an enforceable contract. How do we capture those consumers as well, or can we?

MR. BURNS:

You are talking about financial literacy. We are always trying to educate consumers as to what their rights and obligations are within borrowing and lending.

Regarding offshore lenders, if something goes wrong for someone borrowing out of state or offshore, they come to us or some other assistance such as the Legal Aid Centers for help. That is when we are able to tell them the loan is not enforceable. The drive to educate is ongoing, and we are hopeful that financial literacy will become more and more prevalent with time.

SENATOR SETTELMAYER:

Installment loans are included in NRS 604A. Lenders who give installment loans use FICO scores, which I believe are regulated by the federal government. Why are we lumping these loans in the same category as payday loans?

MR. BURNS:

The type of loan you are talking about is a traditional installment loan under what used to be NRS 480. It has been recodified. Yes, there are federal regulations that apply to that type of loan, as well as State regulations. They use a totally different qualification litany from payday loans or other traditional high-interest loans. As to whether or not they should be included in this particular issue, that is a policy decision that needs to be made by the Committee.

ZACH CONINE (State Treasurer, Office of the State Treasurer):

I am here to express my strong support for S.B. 201. In Nevada, too many people are either under-banked or un-banked. The Treasurer's Office is committed to making sure hard-working Nevadans have access to capital, but also have the necessary tools they need to succeed and get ahead. Currently, there are about 504 high-interest lenders in Nevada, predominantly located in low-income communities. While these businesses serve a necessary purpose in allowing people to have access to capital in emergency situations, some within the industry have made it so people become trapped in high-interest loans.

One of the functions of the Treasurer's Office is increasing opportunity, specifically by giving Nevadans the financial literacy tools they need to make responsible and effective financial decisions. The other side of that coin is ensuring institutions are regulated in such a way as to protect people from bad actors. This bill adds an additional layer of accountability on the industry so that we can ensure every lender is on a level playing field and Nevadans do not get taken advantage of. By streamlining information about high-interest loans into a centralized database, we can ensure greater compliance with existing law throughout the loan application process. This database will also allow Nevada to join 14 other states in developing a similar system to track the loans, including their quality, dollar value and interest rate.

In addition, the Treasurer's Office is supportive of the provisions of the bill that codify the MLA into statute. Over the last several years, Nevada has earned its place as one of the most veteran-friendly states in the U.S. This bill will help us to keep our promise to Nevada's veterans by ensuring that service members and their families are not taken advantage of.

I want to thank Senator Cancela for her leadership on this issue, as well as the Legal Aid Centers. I firmly believe that through this legislation, we can hold lenders accountable, weed out bad actors and ensure that hardworking Nevadans do not lose access to much-needed capital.

BARBARA PAULSEN (Nevadans for the Common Good):

We strongly support S.B. 201. I have written testimony ([Exhibit F](#)) on the need for this bill. We support all consumer protections, including protections for financial services. Last fall, we hosted a meeting in southern Nevada attended by over 500 concerned citizens. At that meeting, Governor Steve Sisolak stated he was in support of an up-front lending enforcement system.

BARRY GOLD (AARP):

On behalf of our 348,000 members across Nevada, we strongly urge your support for S.B. 201. It will help protect Nevada families, including our moms, dads and grandparents from getting into the debt cycle we have heard about. This cycle is often referred to as a debt spiral, and it can be very hard to get out.

JIM SULLIVAN (Culinary Workers Union, Local 226):

The Culinary Workers Union represents 60,000 working men and women in Nevada. We are opposed to predatory lending practices. Payday lenders make billions of dollars in fees by trapping hard-working Americans in a cycle of debt. This is unacceptable. Creating a tool to track payday lending in Nevada is a necessary step toward regulating this often exploitative industry. This measure would make State regulators more effective in overseeing Nevada's payday lenders, and we fully support S.B. 201.

REVEREND SANDY JOHNSON (Nevadans for the Common Good):

I strongly support S.B. 201. I have written testimony ([Exhibit G](#)) describing the experiences of friends and family with the payday lending industry.

LEESHA NUSH:

I am here in support of this bill.

I am testifying both as a borrower and as an employee of a payday loan company. I was a single mom raising two sons. One Christmas, we did not receive a bonus at the place I was working, and I had taken out a loan for the amount I thought I was going to receive as a bonus. That led me into six months of rollover loans. I went to another lender to try to pay off the loan and still keep the utilities on, the car going and the children fed. A few years down the road, a friend who had gotten a job at one of the payday loan companies told me they were hiring, so I applied. After being trained and working for them for six months, I realized borrowers are not given all the truth upfront when they apply for a loan. Whether that is through a lack on the part of the person making the loan or the person receiving the loan, I am not sure, but it is very hard. It has to do with reading all the papers you are required to sign.

If this bill passes, I do not feel people will lose jobs. It will just make it better for customers so they will not get into rollovers. I am not the only one in this situation; I am speaking for others who have gotten into trouble in this area.

BENJAMIN EDWARDS:

I am a law professor at the University of Nevada, Las Vegas, William S. Boyd School of Law. I research and write about consumer financial protection, corporate law, securities law and other related financial intermediation issues. I am speaking on my own behalf.

I speak in support of S.B. 201 for two reasons. First, the risk that consumers will suffer a significant loss of access to short-term credit if this bill passes may be overstated. This type of database has been put into place in a number of other states, and payday lenders have continued to operate. I would also like to note that financial intermediaries have a long and well-documented history of overstating the risks to their businesses when new regulations go into place.

I also question the argument that diminished access to credit would drive people to the riskiest and worst alternatives. Right now, we have lots of new financial technology firms that have been funded by Silicon Valley. I want to highlight one called Earnin. It has more than \$190 million in venture funding. It allows people to get advances on their paychecks in exchange for a donation. You pick how much you want to pay. This is a very different business model from the usual payday lender because it does not lead to rollovers and other traps.

Another alternative has to do with money owed to the Internal Revenue Service (IRS). I noticed on my morning commute a sign for a short-term lender advertising payday and title loans for people who owe money to the IRS. The idea that you would use a short-term loan to pay your federal income taxes makes very little sense. The IRS offers a repayment plan with APRs in the neighborhood of 4 percent to 6 percent, which is vastly less than that available from a payday lender.

Another point to keep in mind is that you have a choice about what kind of information environment we want in Nevada. This bill would make that environment much better. It would change how lending is done. If you believe, like me, that dirty business gets done in the dark, you want to ensure that Nevada business is done in the sunlight, such as that provided by this bill.

MACKENZIE BAYSINGER (Human Services Network):

We are in support of S.B. 201. I have written testimony ([Exhibit H](#)) describing the injustice this bill will help curb.

SHANE PICCININI (Food Bank of Northern Nevada):

We are in support of S.B. 201. For low-income and middle-class Nevadans, food security is one of the biggest challenges they face. A persistently large population in Nevada live at or below the federal poverty level of \$12,140 annual income for an individual or \$20,780 for a family of 3. Many of the clients at the Food Bank of Northern Nevada are still struggling to recover from

the economic collapse of 2008. The escalating costs of health care, child care, and, most importantly in Washoe County, the skyrocketing cost of housing, can leave any one of us in a situation where a short-term loan is needed to recover from an immediate financial crisis. Our clients routinely share stories where they are having to skip meals just to keep from falling off an economic cliff.

Working with clients at our Bridges Out of Poverty program, we hear many stories of people who sought innocuous short-term financial assistance, only to have it quickly become an overwhelming and stressful struggle to keep up with the escalating demands of loan payments while also trying to manage their normal monthly living expenses. In many cases, our clients have to turn to our partner agencies to request food assistance as they fall deeper and deeper into the debt cycle.

Providing opportunities for hard-working people to find access to reasonable, affordable short-term economic relief is one of the most important tenets for any healthy community. The best way to provide that support is to give our communities effective tools to better enforce and regulate our consumer protections so people do not end up in a cycle of debt that perpetually keeps hard-working families food insecure. Small steps like S.B. 201 will give our clients more opportunities to stay food secure and ultimately keep our entire community healthy and productive.

LYNNE KELLER (Opportunity Alliance Nevada):

We are in support of S.B. 201. I have written testimony ([Exhibit I](#)) explaining the debt cycle and relating the stories of two people who were trapped in it.

CHRISTINE SAUNDERS (Progressive Leadership Alliance of Nevada):

We are here today to express our support for this bill.

Payday loans are among the most predatory forms of credit on the market. They are marketed as having reasonable fees or charges, but the average interest rate in Nevada is 652 percent. Because the lender's bottom line actually depends on the borrower's inability to repay, 4 out of 5 payday loans are rolled over or renewed within 14 days. In fact, most payday loan fees come from borrowers who take out more than ten loans a year and become trapped on a debt treadmill. Siphoning money out of poor communities and communities of color takes a serious toll on our economy. Money that could be spent building up local

businesses or investing in communities is instead directed to paying off never-ending fees.

Senate Bill 201 would allow for proper enforcement of existing consumer protections. We ask that you vote in favor of this bill to help prevent low-income Nevadans from becoming overloaded with debt.

PATTI MCGUIRE (Nevadans for the Common Good):
We are here in support of S.B. 201.

I work at St. Elizabeth Ann Seton Catholic Church, and we operate a food pantry. I see over 120 people a week in need of food. The last time I spoke to them about payday lending, I asked them how many of them had taken out payday loans. At least 50 percent of them said they had. When I said I wanted to talk about payday lending, they all said "Good, go, because a lot of us have been caught in this debt cycle."

If 10 percent of the lenders are bad actors, which of my friends must I choose to get caught in that cycle? Why should the payday industry get a pass when all other industries must follow the law?

SARAH ADLER (Nevada Coalition to End Domestic and Sexual Violence):
We are in firm support of S.B. 201. I have written testimony ([Exhibit J](#)) explaining how this issue affects victims and survivors of domestic violence.

IZZY YOUNGS (Nevada Women's Lobby):
We are in support of this bill.

WILL BRADLEY (United Veterans Legislative Council):
We are here in support of S.B. 201. I am a retired lieutenant colonel with the Army Reserve, with 28 years service and 3 deployments to Iraq. I retired in 2018, and I work today as a pilot for a major airline.

I am a capitalist. I believe every business should make as much money as it legally can. However, there are times when we must protect people from themselves. We do not let 18-year-olds go to the mini-mart and buy 40-ounce bottles of beer because we know they cannot handle it. For that reason, I rise in support of S.B. 201. It protects soldiers from themselves, which they sometimes need. When I was on active duty at Fort Stewart, Georgia, I had a

big-spending wife, and we got in a debt spiral. I had the opportunity to go to the Army Emergency Relief fund, which helps soldiers who get into trouble without charging interest. However, it does not exist for National Guard and Army Reserve members, and they can get trapped in that cycle.

When I was battalion commander of an Army Reserve battalion, I realized I had a big shortage in enlisted staff ranked E-7, sergeant first class and above. Why? Because you have to have a security clearance to be ranked E-7 and above. My E-6s who had bad credit from these type of loans and from bad decisions they had made were not even applying for the higher ranks. That impacted our readiness as a battalion and our deployability.

I want to commend Senator Cancela because I believe her to be sincere and knowledgeable in her advocacy in this bill. I find the 36 percent limit on interest reasonable, as is the 25 percent limit on payments.

I would also like you to realize that when a soldier deploys, by federal law their interest rate is automatically lowered to 6 percent. I ask you to consider that when you finalize this bill.

TONY YARBROUGH (Veterans of Foreign Wars):

We support this bill. I represent the nearly 9,000 members of Veterans of Foreign Wars in Nevada. I also represent close to 500,000 members of the United Veterans Legislative Council (UVLC), Nevada Department of Veterans Services. The UVLC is an organization of all the veterans organizations throughout Nevada. That includes all veterans, active duty military, National Guard, families and advocates.

I support including the MLA in S.B. 201 to prevent predatory lending. It was well stated that a financial risk creates a security risk, which can be harmful to a military career. This bill is a fair and balanced approach and a win-win for all parties. I thank Senator Cancela and the Legal Aid Centers for bringing this forward.

BRIAN MCANALLEN (Opportunity Village):

We support this bill. Opportunity Village works to support the needs of individuals who are intellectually and developmentally disabled. We believe S.B. 201 has a number of provisions and protections for our vulnerable population.

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PETER GUZMAN (Latin Chamber of Commerce):
We are opposed to S.B. 201.

I find it interesting that there was testimony about short-term loans being a problem in minority communities only and people of color, yet I did not see one person of color testify in support of the bill.

We are consistent on the idea of databases. Databases like this, which I am sure are intended to help, end up being databases of minorities and Latinos in particular. We are vehemently opposed to the idea of keeping a database that will end up being a database full of Latinos. This will be a database that has the risk of being hacked, which happens all the time. Equifax got hacked, and they are a national securities firm. Even more dangerous, these names could end up in the hands of people who do not like immigrants. There is no way I could sit back and accept hardworking people being put into jeopardy like that.

Those who have access to capital need to think about how it feels to not have that access, like most of the people I represent. The big traditional lenders do not lend small amounts, especially to people of color. That is a fact, and the facts are clear on this. These small loans are used to make payroll, to make household budgets, and to just get by during tough times.

That is why I am here today vehemently opposed to the gathering of names and personal information into a database and saying it is there to protect the unfortunate, when the unintended consequences actually do the complete opposite. This will drive hardworking people who may need a little capital to get by to the dark web, where the real predatory lending is going on right now.

I thank Senator Brooks for bringing up the fact that the fines and the bad actors have gone out of this industry mostly because of Legislators working with good actors. I hope that spirit continues.

SUSAN BRAGER:
I am opposed to S.B. 201.

I have been in public service for many years. When I first became a public servant, Dollar Loan Center was in my district, and I did my homework. I visited their establishment; I spoke with their customers; I saw their integrity; I saw

how they worked and how they met the needs of people who maybe could not take their children to the doctor. A bank is not going to give you \$200 or \$400.

I also have the same concern as Mr. Guzman, that those who need short-term loans will go underground. It would be detrimental to those who need a stopgap solution to an emergency situation.

I do not usually share personal information, but I would like to talk about my daughter. She is a single mother with 5 children, and she needed \$500 to deal with something happening in her life. She got into a Dollar Loan Center situation. She called me up and said she thought she was going to have her money quicker than she did. She called the loan center, and they stopped the interest on her loan. She paid off her loan and went on. She has never had to get a loan again. She understood and appreciated the process.

We have to be very careful putting in more restrictions and more laws as a government. I am hearing today that the problem has become minimized. In the last three years, the complaints have gone down. The short-term lenders are doing what they need to do to protect their consumers. You have the rules and regulations in place. Changing it will be detrimental to a great portion of our society.

DR. GLORIES POWELL (Dollar Loan Center):

I am here today to stand against S.B. 201. It will create a problem it has been established to solve.

I have been in the city of Las Vegas all my life and have been in the ministry for 30 years. I am the Senior Pastor of CODA Ministries and the President of the Respect Initiative, which caters to disenfranchised veterans and at-risk youth. We see many families who need emergency funds, and Dollar Loan Center has been a faithful partner that has helped people. I remember a single mom who had been put in a bad situation economically. She had nowhere to go and nowhere to live, and she was able to secure a loan that helped her come off the streets.

It is impossible to legislate morality. Something should be done for people who get into financial situations where they cannot pay back loans, but not by penalizing those who provide that kind of help. We should focus more on

helping people not get into financial straits as opposed to penalizing those who are providing a way out via short-term loans.

I agree with Ms. Brager that Dollar Loan Center, in particular, has not only helped in loans and repayment of loans, but has also assisted by employing people.

ALISA D. NAVE-WORTH (MultiStates Associates, Inc.):

We are in opposition to S.B. 201. I have written testimony ([Exhibit K](#)) that lays out the reasons for our opposition and our argument against this legislation.

SENATOR SETTELMAYER:

Do you ever help out with financial literacy programs? Sometimes you run across people who could use a little more assistance in that area.

Ms. NAVE-WORTH:

Our clients are deeply committed to financial literacy. It does not make sense for us to loan money to people who cannot pay it back. It is not good business. We are committed not only to our clients, but also to the communities they represent. We represent the largest brick-and-mortar short-term loan company in Nevada; they have over 40 storefronts and employ hundreds of people. These are good, long-term jobs, and they want to make sure they are the gold standard for this industry. This is why in 2017, in the negotiations regarding Assembly Bill (A.B.) No. 163 of the 79th Session, we offered to add an additional financial literacy dollar that establishments would pay to fund financial literacy training. That was rejected.

We think the provision that requires financial literacy, which is optional in this bill, should be mandatory. We would like to have that conversation as well.

WILLIAM C. HORNE (Advance America Cash Advance Centers, Inc.; Enova):

We are in opposition to S.B. 201. I have written testimony ([Exhibit L](#)) regarding the reasons for my opposition.

During the recent shutdown of the federal government, payday lenders made no-interest loans to federal employees. In addition, victims of domestic violence have found themselves trying to flee bad situations by moving into a new apartment, for which they need first and last month's rent plus a security deposit. This is in addition to other costs they did not anticipate. They just need

a little help to get into protection. There are entities out there to help with this situation, but they cannot do it all. The short-term lending industry has aided in that as well.

SENATOR OHRENSCHALL:

Is there any data in the industry as to how many customers successfully pay off their loans versus those who get caught in the rollover cycle?

MR. HORNE:

With Advance America, the average loan is \$350 with a term of 2.5 to 3 weeks. With regard to rollovers, when someone comes to borrow money, the lender does not ask them what they want the money for. Lenders rely on good faith and documentation presented by borrowers.

A more useful exercise would probably be to check the records of the Legal Aid Centers. Why are we not looking at their data to see what problems they see, and who the bad actors are who are not following the laws and regulations that are already in place? That is where the true data is located. If we could access that information and find out what the true problem is, it would be a better use of our time in protecting consumers.

SENATOR BROOKS:

You mentioned a fee of \$5 per transaction. Is that something being done in another state?

MS. NAVE-WORTH:

Fourteen states have passed legislation enabling Veritec databases because Veritec is a single source company; it is the only company that provides this enforcement mechanism. Fees have been introduced in a variety of ways. In some states, the fee has been put directly into statute; in some states, that decision was deferred to the regulator. In Virginia and Florida, it was deferred to the regulator, and the regulations allowed the fee to be up to \$5 per transaction. Sometimes part of the fee goes to lenders for the clerical cost of the added layer of the transaction.

When you say the fee is between 42 cents and \$1, that is disingenuous. It can actually go up to \$5. We argue that there is no reason not to put this fee in statute. If the process is to be transparent, it should be up to this body, not a single-source vendor. We want the negotiations to be out-front, as they are in

many other states, so it would not be outside of the norm. In fact, the majority of the states with a database have put the fee in statute. We can provide more information about the statutes in each of those states if requested.

SENATOR SETTELMAYER:

I would like to see that information. I am curious how other states do this. Again, I am concerned about section 8 of the bill. In other states, do they pay the fee to the state or to the vendor? In a bill I sponsored in a previous session, I was told it was illegal to have fees paid directly to a vendor.

MS. NAVE-WORTH:

We will get that research to the Committee.

CHAIR SPEARMAN:

You mentioned putting a \$5 fee in statute. Where was that?

MS. NAVE-WORTH:

In Virginia and Florida, the statutes appear to cap the fee at \$1, but subsequent regulations extended it to \$5. Then there is a sliding scale of fees across the U.S. In some states, it costs 72 cents per transaction, and in other states it costs 42 cents per transaction. I do not know why it would cost more or less in different states. We think it should cost as little as possible because this fee is going to be passed on to the consumer because of the margin. Make it as inexpensive as possible, and if they can do that, they should be able to assess that in statute. I can get you a list of how the different states handle fees, as I said.

SENATOR SETTELMAYER:

I am looking at [Exhibit E](#), which is a table of other states' databases, but unfortunately none of that answers my question of whether the fee goes to the vendor or to the state, which I think is the correct procedure. Fees are supposed to go to the government; if they do not, they are transactions. That is the information I want.

MS. NAVE-WORTH:

I will get that information for you.

CHAIR SPEARMAN:

Mr. Burns, I have a question about [Exhibit E](#), which I believe was prepared by the Legislative Counsel Bureau. In some states, the commissioner establishes the fee per statute; in others, it looks like the fee has been established by the state. Is there a reason why we would deviate from that? Why would the money not come to the State rather than going to the vendor?

MR. BURNS:

In some states, the fee goes to the state because they take a cut of the fee. The actual cost to the vendor might be 50 cents, so the state charges \$1 and takes half as revenue. Our intention is not to charge any more than what it costs the vendor. The answer to the question about why the fee varies between states is that the cost is based on the volume of loans done in that state. The greater the volume, the lower the cost. Some states have low volume; some have high volume. Nevada has a very high volume of loans.

If the funds were to come to us, that would require additional staff to do the accounting, distribution and so forth. It was our feeling that instead of it going through us, because it is just a straight fee, it should go directly to the vendor at the price that is set. As to transparency, that fee will be set by regulation. That means workshops, votes to adopt, going to the Legislative Commission and so on. That is about as transparent as you can get, in my understanding.

ANDREW MORRISON (Brundage Management):

Brundage Management does business in Nevada as Sun Loan Company. I am a past chairman of the American Financial Services Association (AFSA) and a founding member of the National Installment Lenders Association (NILA). I have a letter of concern ([Exhibit M](#)) from the AFSA and a letter of opposition ([Exhibit N](#)) from the NILA.

We are opposed to S.B. 201. Traditional installment loans do not trap people into the cycle of debt. In the words of Richard Cordray, the former director of the CFPB, our loans are structured to support repayment. This is because we test the ability to repay, and the loans are payable in equal monthly installments of principal and interest. And those payments are affordable. Pew Charitable Trusts did a study and found that 85 percent of these payments are at 5 percent or less of gross monthly income. The National Black Caucus of State Legislators, the National Hispanic Caucus of State Legislators and the National Organization of Black Elected Legislative Women have all endorsed the

traditional installment loan product. The CFPB exempted us from the payday rule.

Should you choose to pass this bill, we respectfully request that you adopt our conceptual amendment ([Exhibit O](#)) submitted by Marcus Conklin. This would exempt us from the EES database and restore the safe harbor provision.

In no other state are traditional installment lenders required to consult a database before making a loan. The reason is fairly clear. Apart from the fact that our product is considered safe and affordable, we already do a check with credit bureaus before we make a loan, and we report monthly payment performance to the credit bureaus. That is a matter of law in Nevada.

SENATOR SETTELMAYER:

What do you do for financial literacy programs? I have been to some of these storefronts, and you see pamphlets and brochures promoting financial literacy in order to help train individuals. Could you elaborate on that?

MR. MORRISON:

I am on the board of AFSA's education foundation, which is a founding member of the Jump\$tart Coalition for Personal Financial Literacy. It has also developed a program called MoneySKILL, which is available online and is provided for free to anyone who wants to use it. It is an interactive program designed for schools, but it can be used at universities, companies and other organizations that have found it incredibly beneficial. The Education Foundation will also provide teacher training on MoneySKILL for free.

That education is on the side of preventing financial problems. We find that a lot of people out there who could be using our products are not going to go back to school. For this reason, we also work with Dr. Rickie Keys of Renewal Financial, and he provides coaching online for people who want to improve themselves. This provides what may be termed remedial financial literacy training. It deals with real-life situations. If people say they cannot find work or did not realize credit scores were important, this helps them understand why they need to take care of their credit.

I would like to note that none of our loans are sold into the secondary market. They are all kept for our own accounts. It is definitely in our interests to make

sure the borrower can afford to pay us back at the end of the day. A well-educated and well-informed borrower is the best borrower for us.

SEAN HIGGINS (Dollar Loan Center):

We are opposed to S.B. 201. I have a presentation ([Exhibit P](#)) explaining some of the existing laws covering short-term loans and describing some unintended consequences of the bill. I would also like to point out that in Las Vegas, there are 50 to 60 employees of Dollar Loan Center in the audience in opposition to this bill.

I would like to point out that the FID has the authority to enforce these laws today. Dollar Loan Center does not make a loan unless the person qualifies and meets those standards. We are more than willing to be out in the sunlight here. The Legal Aid Society stated earlier that the average APR in Nevada in 2018 was 652 percent. In 2018, Dollar Loan Center's average loan was \$486 and was kept out for 66 days. The interest paid on that amount was \$134, so the actual interest rate paid for the period of the loan was 27.5 percent. That is how this works. When these customers pay off a loan, there is no balloon; there is nothing further owed. They have paid principal and interest. They do not have to take out another loan. There is no quote-unquote debt treadmill.

We have been accused of being predatory lenders. As you can see on page 12 of [Exhibit P](#), 40 percent of the customers who walk into our doors are denied a loan because they do not qualify. Of those who do qualify, 50 percent are given a lower amount of money than they asked for. If we were predatory lenders, we would give everyone everything they ask for, but we do not. In order to qualify, customers must have no other active short-term loans. We and many other lenders in this field use a database called Clarity. We know if you have a loan out with Rent-A-Center, not just with other short-term lenders. That is in addition to running a credit check on the customer. So we do know when you have similar loans out.

With regard to offshore lenders, as you can see on page 13 of [Exhibit P](#), when you sign up with them you give them your bank routing number. When your loan payment is due, they can press a button and just take it out of your bank account. The FID may tell customers that offshore lenders cannot enforce their loans, but they do not need to when they can just drain your bank account three times over if they like.

We stand in opposition to S.B. 201. We do not think it adds anything. We were here last session with A.B. No. 163 of the 79th Session and came to a compromise in good faith. We felt we had taken a lot of steps toward providing additional assurances to the proponents of the bill that we were serious. However, that is apparently not enough.

CANDISE TRACY:

I am an employee of Dollar Loan Center. I am here today to help you understand how important this job is to me. Dollar Loan Center is a great place to work, and it means so much. I am able to provide help to people in need, and that is ultimately fulfilling to me. It personally helps me be a better individual. I know firsthand about hardships and how they can come up, and I want to explain why this decision affects me in every way. Working at Dollar Loan Center reassures me that my family and I will have our own shot at the American Dream. This job provides food, shelter and transportation, among many other things. It also gives me the flexibility to be a great parent at home because I am home by a decent hour. I worked on the Las Vegas Strip for 12 years with no benefits. I would drop my kids off in the morning and not see them again until the next morning. I missed so many events at school and meetings, and now I finally have an employer who cares about the family I am raising. Dollar Loan Center is different. Any time I need personal time for family events or sick time for my boys, I am granted that without missing pay. They are the most important thing to me, and this job allows me to be home to answer their questions. It allows me to be there to tuck them in at night.

Please consider the lives you are going to shatter if you pass this bill. I need this job so I can continue to not only provide for my family, but also be a resource for others. I do not know why a database is even needed for Dollar Loan Center because we already follow the law and we do not lend to people if they do not qualify. I have personally had to take out loans before, but in my case I am a little bit more responsible. If I take out a loan on Monday because I have a hardship, I should be able to go next week to get another loan. The database is going to tell me I cannot. If I have the money to pay it off and I have proven I can do it, the database should not stop me. That is what would happen with the cooling-off period in this bill. I would be missing money for rent. Anything can come up. This database would not work for a person like me; it would hurt me.

GLORIA DIAZ:

I am a regional manager with Dollar Loan Center. I was nervous about coming here today, but I think this is an important issue, and I appreciate the time to voice my perspective. Due to the declining economy, poor education and escalating violence, in July 2006 my family and I decided to move from Puerto Rico to Las Vegas. I was quickly employed by Dollar Loan Center in August 2006. Over the years, Dollar Loan Center has helped me in many ways. I grew with the company professionally and personally. I started out as a loan processor and moved up to assistant manager and then to store manager of one of the largest locations of the company. Now I am a regional manager. The flexible schedule allowed me to spend quality time with my children. I was able to be with them when they needed me while still being able to financially support them. I was able to assist them in getting an education. My son graduated from college with a bachelor's degree and is now working for a prestigious software company. With Dollar Loan Center, I am able to provide for my family. In the near future, I will find myself taking care of my elderly mother and disabled brother. Without Dollar Loan Center, this will not be possible.

At Dollar Loan Center, we make sure we are lending responsibly. We make sure we follow the law. We make sure we are not lending to people who do not qualify. Please take a minute to think how it would impact my family and my life if this bill passes.

DAN KEARNEY (Senior Vice President/Market Manager, Entercom Radio):

I am opposed to S.B. 201. Listening to today's hearing, we have learned that 90 percent of short-term lenders are good apples. Only 10 percent are bad, and most of them comply with the law when complaints are brought to the FID.

Dollar Loan Center has been a client of ours for a long time. Radio is a personal medium, and listeners will complain about or applaud our clients. In the 20 years we have done business with Dollar Loan Center, we have never received a complaint about them. We heard today that there can be many reasons for this; sometimes people are embarrassed. But we also saw the statistic that out of 768,000 transactions last year, there were only 8 complaints and only 1 to the FID. I am not surprised that we have never had a complaint.

I have heard it claimed that payday lenders target low-income or minority groups. We have six radio stations with different demographics; we cannot

target specific areas. We have strengths in different areas because of the different formats, but never once has the owner of Dollar Loan Center asked me to target any low-income, minority or ethnic group. That may be the stereotype of the people we think take out these kinds of loans, but in reality it is all types of income levels and small business owners who are taking out these types of loans.

We heard from a number of charitable groups in support of this bill. One of the missions we have as a radio station is to give back to the community. The owner of Dollar Loan Center is one of the first people to call when he hears we are having a toy drive or a food drive to say, "What do I need to do to go help and support and give cash?"

DOUGLAS DIAZ, JR.:

I am currently the League president for Henderson Little League from Henderson, Nevada.

I am here today in support of Dollar Loan Center. They have been involved with our Little League for the past seven years. As a young boy, I was fortunate enough to play with this Little League. I had the opportunity to experience what it was like to be part of a team. Today, it makes me proud to be part of the same nonprofit organization. I wanted to make a difference in the community I live in. Dollar Loan Center has helped me make that difference. Without their help, the League would not be here today.

Dollar Loan Center has been our corporate sponsor for the past 8 years and has given opportunities and experience to our many young ball players with generous contributions of \$150,000 to date. Our whole organization, especially our children and scholarship families, are greatly appreciative of the generous donation made each year that makes it possible for them to be part of the team. Dollar Loan Center has given over 600 children an opportunity to learn sportsmanship and teamwork and to play the great game of baseball. Dollar Loan Center was there when so many other companies dropped corporate sponsorship. Without their help, Henderson Little League would have to raise its registration fees and find other sources of revenue.

MARIA GARCIA:

I have been working with Dollar Loan Center for almost 13 years. After I separated from my daughters' father, I had to find a job to support my children.

Working with Dollar Loan Center helped me to do that. I wanted to do it on my own without any kind of help. Dollar Loan Center works with my schedule; not a lot of other jobs will do that for you. As a single mother, it was very important to me that I was able to take my children to school in the morning and be with them in the evenings.

Since working with Dollar Loan Center, I have been able to do a lot professionally that I am proud of. Before working with Dollar Loan Center, I did not have any management experience, and the company gave me the opportunity to be successful by teaching me the skills I needed. I started as a loan processor, and now I am working in the internal auditing department. As a professional who is responsible for reviewing loan decisions, I can verify that we do not lend to people who do not qualify for loans.

When I started working at Dollar Loan Center, I was a permanent resident of the U.S. I wanted to become a U.S. citizen, but I could not because it was expensive. I was a single mother, and I had to choose between buying groceries or saving for my citizenship application fee. I chose to make sure my daughters had everything they needed. Dollar Loan Center has given me the opportunity I might not have gotten somewhere else. All of my hard work paid off, and I am proud to say my two daughters graduated from high school with honors, and I became a U.S. citizen in December 2018.

JOE GOMEZ:

I have been with Dollar Loan Center for four years. I work in the Information Technology department, and I am here today to tell you how the benefits I get from Dollar Loan Center made a huge difference in my life.

I can clearly remember that in third grade, our class all got hearing tests. I was told I might have to see a hearing specialist. My parents were immigrants from Mexico and did not take me for further testing. As far as they knew, I could hear and talk just fine, and they did not see a need for me to go. As I grew, I noticed that I would be in a conversation with a group of friends and would have a hard time hearing everything they said. I ignored this for years until my early 40s, when I noticed that my wife and family members would have to raise their voices and ask if I was deaf all the time. The worst feeling in the world is when you are in the center of a conversation and truly do not hear half of the words being spoken. I was good at nodding my head and acting like I understood what was said when I really had no clue.

At this point, I wanted to seek help and acquire hearing aids, but the cost was around \$4,000 to \$5,000. Most insurance plans do not cover that. My previous employer's insurance did not help at all with the cost, so I looked for a new job with better benefits. I found Dollar Loan Center. I was hired, and within 90 days I had my health insurance and was ready to move forward with my hearing aids. I made an appointment with an ear, nose and throat specialist to see how bad my hearing really was. The results came back that I was unable to hear in the high tones. This is like listening to the radio with the treble turned off. The doctor sent me to get fitted for hearing aids. When this process was completed, I went back in to pick them up, and they gave me the bill. To my surprise, I owed them nothing. My Dollar Loan Center insurance paid for the entire cost of my hearing aids. The only thing I had to pay was \$50 for a year's supply of batteries.

I had saved \$2,000 to purchase these hearing aids over the last couple of years. Thanks to Dollar Loan Center's insurance, I was able to spend that money on my family. The first time I used these hearing aids, I knew I was not going to miss out on any more conversations. They have been a blessing not only for me, but for my family.

KEITH LEE (Community Loans of America):

I am here today representing Community Loans of America, doing business in Nevada as Nevada Title and Payday Loans.

I think I can speak for my colleagues when I say that none of the companies that operate under NRS 604A wish to have nonperforming loans. That is not in our best interest to do that. But it is important for me to differentiate title loans from the other loans in NRS 604A. There are three different areas in which they are different. First, a borrower can only have one title loan at a time because we hold the vehicle's paper title. We have a lien on the automobile for the term of the loan. Second, the only recourse we have in the event of default is to repossess the vehicle and sell it. We do not do that very often. Under current law in Nevada, we cannot take court action or sue for principal, nor can we sue for any deficiency in the event we sell the automobile. Third, we have our own database. Because we take the title, our database is the Department of Motor Vehicles (DMV). We contact the DMV to ensure there is not another title out on the automobile that can be used for a loan. We verify that there is only one title loan out at one time.

Senator Cancela has been working with us on these issues, and she understands our concerns. We appear today to stand in opposition to S.B. 201.

CYRUS HOJJATY:

I have not read S.B. 201, so I am neutral to it. I do believe that we have a lot of regulations and policies that hinder the economy and economic growth.

CHAIR SPEARMAN:

If you are going to comment as part of this hearing, you must comment on the bill specifically.

SENATOR CANCELA:

Thank you for a thorough hearing of both sides on S.B. 201. I would like to refocus on what the bill actually does. We have heard a lot about how specific employers are good actors or how the industry provides certain needs. What we have not heard, and what I think is most important in considering your support or opposition to this bill, is how better enforcing current laws would in any way change the industry's ability to operate. That link is essential in considering the opposition testimony. Their arguments rely on the idea that an EES database would result in absolute destruction of the industry. Thirteen other states that have enacted such a database have shown that is not what happens when a database is enacted. For context, in Florida, there are a little over 21 million people, and they have 986 short-term high-interest storefronts. They have a database in place. In Nevada, we have about 3 million people with over 500 storefronts, and we do not have the same enforcement tools.

This bill creates a tool specific to existing Nevada laws and allows for State regulators in the Department of Business and Industry to ensure they have the proper support for the work they do. I believe in our State's ability to properly enforce our current laws. What we have seen is that better tools allow for consumer protections. We cannot ignore the stories of those who have come before us today who have been negatively affected when industry loopholes are allowed to exist and people are able to get loans they should not be able to access.

Good actors in this industry, like the ones we have heard from today whose business practices include credit checks and the checking of FICO scores, will not be affected by the database if they are not trying to offer loans that should

not be offered. This will only enhance their ability to offer secure and proper loans.

I want to address some of the concerns that came forward. In relation to the audit in [Exhibit D](#), the audit overall shows the need for better enforcement of current regulations. The stories we have heard today from clients like those at the Legal Aid Centers are not necessarily captured by the audit. Those are the kinds of vulnerable individuals who need to be protected, and the law does not work for them. We heard specific testimony as to how the database will close loopholes in the current law. I also want to repeat that there are no new laws created in this legislation. The term "cooling-off period" was thrown around, and that is not in any way part of this bill.

I want to talk about the database and its potential for tracking our vulnerabilities. There is no new data that would be collected through the database. The data being collected is already collected by the FID today. Rather, the database would put it in a central repository and would allow us to answer these long-term questions, like the ones raised about how many loans go unpaid and how many loans go into default. By having a centralized repository for all this information, the FID can answer those questions as a neutral third party that regulates the industry instead of relying on data from lenders.

We did not hear opposition to putting the MLA in State law. In 2006, when the MLA was issued by the U.S. Department of Defense (DOD) and signed into law by President Bush, the DOD said that the largest threat to national security was financial instability on the part of service members. They said this because such instability prevented service members from qualifying for higher level security clearance. Those protections are in place for military members because in 2006 our government acknowledged that short-term high-interest loans can hurt a person's financial stability. We as a State have taken measures to ensure there are regulations and laws in place to protect consumers, to protect the industry and to allow the State to enact these rules.

It is now time to take those laws into the 21st century and make them electronic. That is what this bill does.

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CHAIR SPEARMAN:

I will close the hearing on S.B. 201. Is there any public comment? Hearing none,
I will adjourn the meeting at 3:53 p.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	25		Attendance Roster
S.B. 201	C	3	Tennille K. Pereira / Legal Aid Center of Southern Nevada, Inc.	Written testimony
S.B. 201	D	43	Senator Yvanna Cancela	Performance Audit
S.B. 201	E	2	Senator Yvanna Cancela	Chart of State Payday Loan Databases
S.B. 201	F	1	Barbara Paulsen / Nevadans for the Common Good	Written testimony
S.B. 201	G	1	Reverend Sandy Johnson / Nevadans for the Common Good	Written testimony
S.B. 201	H	1	Mackenzie Baysinger / Human Services Network	Written testimony
S.B. 201	I	2	Lynne Keller / Opportunity Alliance Nevada	Written testimony
S.B. 201	J	1	Sarah Adler / Nevada Coalition to End Domestic and Sexual Violence	Written testimony
S.B. 201	K	13	Alisa D. Nave-Worth / MultiStates Associates, Inc.	Written testimony
S.B. 201	L	4	William C. Horne / Advance America Cash Advance Centers, Inc.; Enova	Written testimony
S.B. 201	M	2	Andrew Morrison / American Financial Services Association	Letter of concern
S.B. 201	N	3	Andrew Morrison / National Installment Lenders Association	Letter of opposition

S.B. 201	O	1	Andrew Morrison / Marcus Conklin	Conceptual amendment
S.B. 201	P	14	Sean Higgins / Dollar Loan Center	Presentation