In the
Supreme Court of the State of Nevada

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Elizabeth A. Brown
Clerk of Supreme Court

KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada nonprofit corporation,

Appellants,

vs.

NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee; CHRISTINA BAUER, an individual; FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State; DAILYPAY, INC., a Delaware Corporation; PREFERRED CAPITAL FUNDING-NEVADA, LLC, a Nevada limited liability company; ALLIANCE FOR RESPONSIBLE CONSUMER LEGAL FUNDING, an Illinois nonprofit corporation,

Respondents.

Case No.: 88526

District Court Case No.:
Lead Case No.: 24 OC 00018 1B

Consolidated with:

Case No.: 24 OC 00021 1B

Case No.: 24 OC 00023 1B

Case No.: 24 OC 00029 1B

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APPELLANTS' OMNIBUS REPLY BRIEF

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I. INTRODUCTION

The district court was clear and direct in its ruling below, and framed the pertinent question for this Court concisely. Respondents' answering briefs, however, radiate a tremendous sense of vexation. Reading them, it is difficult to remember Respondents actually *won* this part of the action below, so strenuously do they argue for further grounds, for multiple grounds, for more and more yet *different* grounds, upon which to invalidate Statutory Initiative S-01-2024 (the "Petition").[1] The Court may be curious why that is.

Simply put, Respondents do not really care about S-01-2024. They care, instead, about S-03-2024, the other, interest-rate-only petition. These parties are not collections agencies, but each of them engages in transactions whose interest rates would be capped at a 36% annually if this Petition (or the interest-rate-only petition) becomes law. Put another way, winning below on a single-subject claim because the district court considered inclusion of the asset-protection provisions of the original Petition to have crossed the boundary set by NRS 295.009(1)(a) did nothing for them, it was a pyrrhic victory.

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[1] The Respondents combine to assert fourteen "Issues Presented" in the Answering Briefs.

This is why the briefs read as they do. Not content to agree with the district court on its actual single-subject analysis, they embark on an archaeological quest to unearth subject after subject in the Petition's terms, many of them, unsurprisingly, purportedly dug up in the rate-limitation portions the district court ruled was free of single-subject problems.[2] This is why the description of effect excites such interest here when the district court mentioned no issues at all with it. It is also why the full-text argument gets revived here as further, if merely hopeful, grounds for invalidation. What the Court is seeing, in other words, is briefing and argument as proxy for Respondents' appeal of the interest-rate-only petition, Case No. 88557, *DailyPay, Inc. et al., v. Aguilar*.

It is one thing to rely, as Respondents do, on their position *qua Respondents*—because clearly, they do get to prevail now, if they are to prevail at all, on any grounds available to this Court as a determinative

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[2] Below, one plaintiff claimed to find eleven separate subjects in the rate-cap provisions alone. *See* I AA 151–153. In general, however, Respondents seem to elide this Court's distinction between a "subject" and a "change" in law. *See Helton v. Nevada Voters First PAC*, 138 Nev. Adv. Op. 45, 512 P.3d 309, 315 n.5 (2022): "A *subject* is the overall thing being discussed, whereas a change is the alteration or modification of existing law. *See* 'Subject,' *Black's Law Dictionary* (11th ed. 2019) (defining "subject" as "[t]he matter of concern over which something is created")."

ruling. Courts affirm lower court decisions on alternative grounds all the time, no one disputes that. But even in a *de novo* review, it would be strange for the reviewing court to, essentially, permit a Respondent to convert a matter into a type of cross-appeal, or a different appeal entirely, when review is already pending on the issues they pursue. Perhaps this is a function of the manner in which this appeal made its way to this Court, from consolidated matters challenging multiple filed initiative petitions, each the subject of a separate order by the district court.

But the facts of the disposition below remain clear: the Petition that is the subject of this appeal is identical to the interest-rate-only petition, except for the provisions regarding asset protection, its Sections 1 through 16. *Compare* I AA 8–32 *with* I AA 120–136. The description of effect of the Petition here is identical to that of the second-filed petition, save for its additional language describing the asset protection provisions. *Compare* I AA 27 *with* I AA 131. The district court found no invalidity of the present Petition except that the presence of the provisions regarding improved asset protections created a single subject violation, which it also expressed as an overbreadth of the primary subject (and, presumably, that a description that included text regarding a subject the court had rejected was, *prima facie*, invalid). IV AA 763–

772.

All other arguments were rejected by the district court (we need not plunge our heads into the sand on this) because in a consolidated proceeding, heard at the same time, in the same court, among the same parties and advocates, on an expedited basis because of the speed with which ballot measures litigation must be conducted, and in which the Respondents made the self-same arguments they make here, the district court did, in fact, reach all of Respondents' arguments regarding both the Petition's interest-rate cap portions and all other claims about all aspects of either petition, and found them wanting. IV AA 710–716; IV AA 763–772.

And even though each Respondent complains about the cross-pollination of the two orders here, they also do not really agree amongst themselves about what it means. DailyPay says it is improper to "invoke an order that is not before this Court" (DailyPay Ans. Brf., at 22), but NFFC says there is no other way to conceive of the task before the Court, and that it "will need to resolve this appeal in conjunction with Docket 88557" (NFFC Ans. Brf., at 23). They want to leverage both orders when it suits them, and disclaim that when it does not. Additionally, any Respondent could have moved to expedite the appeal in Case No. 88557,

or to consolidate that appeal with this one; they chose neither of those options.

Below, Appellants will go through the range of Respondents' arguments. But the core questions in this appeal remain very simple: whether the asset-protection provisions of S-01-2024 create the single-subject violation found by the court and, relatedly, if those provisions did not cross the single-subject boundary, whether the Petition's description of effect as filed is legally adequate.

II. ARGUMENT

A. The Petition Complies With The Single-Subject Rule

All Respondents argue, and the district court held, that the Petition operates on a level of "excessive[] generali[ty]." IV AA 770. But this does not ring true. The Petition's primary purpose—not really disputed by Respondents, save for Preferred Capital, who tries to mangle the subject matter in ways unrecognizable and indefensible—is a *program of consumer debt relief*. Its parts involve a cap on interest rates (which clearly reduces debt levels immediately); a mechanism to prevent the evasion of the rate cap by out of state banks (which serves the both the effectiveness of the interest limitation and, therefore, bolsters the overall debt relief project); and increased asset protections for debtors who find

themselves in collection proceedings (which, by definition and common sense, serves to shield debtors from devastation in their basic economic condition due to debt).

All of these parts are read together, and they act together. They surely do not, together, reach the levels of generality "that, if adopted, would effectively nullify the single-subject rule." IV AA 771. Set against the types of over-general subjects that this Court has recognized as actual or potential single-subject violations in the past—"government," "public welfare," "fiscal affairs," "statutory adjustments," or "voter approval"—the Petition's subject does not begin to approach an inappropriate level of generality. *Las Vegas Taxpayer Accountability Comm. v. City Council*, 125 Nev. 165, 180, 208 P.3d 429, 439 (2009). Certainly, a program of *consumer debt relief* featuring these components does not immediately appear any more overly generalized than *the framework by which specified officeholders are presented to voters and elected*. *Helton*, 512 P.3d at 314. The single-subject rule "forbids joining disparate provisions which appear germane only to topics of excessive generality such as "government" or "public welfare." *Harbor v. Deukmejian*, 43 Cal.3d 1078, 742 P.2d 1290, 1303 (1987) (quoting *Brosnahan v. Brown*, 32 Cal.3d 236, 651 P.2d 274, 284 (1982)). To be found excessively general, therefore, an

initiative's provisions must initially be considered disparate, and their connection must be the product of a forced marriage under a too-broad canopy. That is not this case. Here, Appellants have articulated a plausible level of specificity sufficient to satisfy legal requirements.

As for the well-known standard of functional relation and germaneness, NFFC attempts to distinguish *Helton* in that the dual aspects of the measure there (which the Court recognized could surely have been brought as separate initiatives) were described as having some synergy: the "effectiveness of one change would be limited without the other." NFFC Ans. Brf., at 18 (citing *Helton*, 512 P.3d at 315). But NFFC embellishes the holding in *Helton* considerably. It is certainly not true that an open primary system would be "functionally meaningless" without ranked choice general elections; plenty of states have open primaries only and no ranked voting. NFFC Ans. Brf., at 18. There is no requirement, as NFFC has it, for a measure's provisions to "rely" upon the others "to function" for a functional relation or germaneness to manifest. *Id.* In fact, the asset protection provisions and the limitation on interest rates in this Petition serve one another to a much greater degree than the election changes proposed in *Helton*. There, the separate provisions, in fact, were lightly-connected changes to the *framework by*

which specified officeholders are presented to voters and elected but, yes, they could be conceptualized together under that general category. But here, the Petition's provisions actually do all *protect* debtors—the active verb of the stated primary purpose is inherent in each proposed change in law. Proponents here are not just saying "these are all changes in election procedures, and are all members of the same genus if not the same species," but rather "these provisions actively further the goals the measure purports to achieve."

Adopting the approach in *Helton*, the appropriate analysis is easy. It is irrelevant to complain, as do almost all the Respondents, that there are multiple kinds of transactions that fall under the Petitions' 36% interest rate limit. That does not, itself, create a single-subject problem under this Court's previous decisions. Instead, from a consumer's point of view, regardless of which of the types of transactions listed he or she enters into, the annual interest rate will not lawfully exceed 36%. Furthermore, from the consumer's perspective the expanded protections of their assets against collections is not some remote subject unconnected to their debt predicament, but rather an important part of the fabric of

their fiscal well-being.[3] The distinctions Respondents draw between an "earned-wage access provider" and a "payday loan," or between lending practices and protections for consumers who are in debt collection do not create single-subject concerns.[4]

Several Respondents make "logrolling" arguments, but this Court has been clear on the meaning of that concept, and logrolling is not a

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[3] In its own garbled way, Preferred Capital actually gets part of it right, inadvertently, in its Ans. Brf., at 10: "[T]he goal of the provision is to relieve existing debt [but] the proposed changes in no way prevent the predatory lending that creates debt in the first place, [which] is accomplished through rate caps."

[4] It also appears that some of the Respondents are not clear on the nature of the people's initiative powers. Initiative is the power of the people to propose bills and laws and to enact or reject them at the polls, independent of the legislative assembly. *See Rea v. City of Reno*, 76 Nev. 483, 486, 357 P.2d 585, 586 (1960). "The people's initiative power is 'coequal, coextensive, and concurrent' with that of the Legislature; thus, the people have power that is legislative in nature." *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 141 P.3d 1235, 1248, 122 Nev. 894, 914 (2006).

If the Nevada Legislature could propose and pass bills that define certain transactions as "loans" or as "not loans," limits interest rates on those transactions, and expands the existing protections of individuals' assets for consumers facing debt collection, then the people can do the same thing. The fact that there are existing laws touching on these topics enacted by the Legislature is only proof that these choices lay within the legislative capacity of the People with which Proponents are engaging. If the Legislature has defined particular transactions in a certain way previously, the People acting in their legislative capacity through the initiative process have full freedom to define them otherwise.

concern here. The single-subject requirement "prevent[s] the enactment of unpopular provisions by attaching them to more attractive proposals or concealing them in lengthy, complex initiatives (*i.e.*, logrolling)." *Helton*, 512 P.3d at 314 (quoting *Las Vegas Taxpayer Accountability Comm.*, 125 Nev. at 176–77). "Logrolling" does not refer merely to the inclusion of multiple provisions in a single petition, some of whom the Respondents happen to dislike more than others. Instead, it concerns "the inclusion of *two distinct changes* in a single initiative petition," which in turn "forces the electorate to choose between two potentially competing policy goals." *Helton*, 512 P.3d at 320 (Cadish, J., dissenting) (emphasis added); *see also Nevadans for the Prot. of Prop. Rights, Inc., Inc.*, 122 Nev. at 906 (single-subject requirement "prevent[s] proposals that would not otherwise become law from being passed solely because they are attached to more popular measures"); *id.* at 922 (Hardesty, J., concurring in part and dissenting in part) (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" (emphasis added)).

Far from manifesting competing policy goals, here each provision of the Petition furthers the overall program of alleviating the escalating

problem of consumer debt. Nor, for that matter, does the Petition attempt to sneak in a controversial proposal by pairing it with more popular measures. *See Nevadans for the Prot. of Prop. Rights, Inc.*, 122 Nev. at 922 (Hardesty, J., concurring in part and dissenting in part) ("Generally, to 'log-roll' a provision into enactment, the proponent advances a proposition that the proponent expects would pass constitutional muster and be easily enacted by the voters, but then adds to the petition a provision, often 'hidden' deep within, that is less popular.").

The Petition does not "try[] to hide an unrelated and unpopular change within the initiative petition with the hope that the electorate decides the more popular change is worth the adoption of the less popular one." *Helton*, 512 P.3d at 315. It cannot be persuasively argued that any of the provisions in the Petition overwhelm and dominate in some manner as to drag hidden, unpopular provisions along with them to the ballot. Respondent Preferred Capital makes a fairly absurd attempt to characterize the asset protection provisions, such as the shield on $5,000 in personal bank balances, as if it were some brazen cash give-away, but let's be honest: if someone is facing collections and is down to his or her last dollars, it will, hopefully, be popular to help that person avoid penury and homelessness, but that is not the sort of thing logrolling addresses.

In *Nevadans for Reproductive Freedom v. Washington*, 546 P.3d 801, 807, 2024 WL 1688083, at *3–4 (Nev. 2024), this Court approved a litany of things it determined were absolutely—even obviously—functionally related to reproductive care, and among them was "post-partum care." The right to post-partum care was found to be related and germane to the other provisions of the proposed constitutional amendment: childbirth, birth control, vasectomy, tubal ligation, abortion, abortion care, management of a miscarriage, and infertility care. Why? By the time one gets to any post-partum care, the "reproduction," technically, has already occurred. But the Court agreed with proponents in that appeal because it took a holistic view of the reproductive process, and understood that human reproductive well-being is a continuum. Here, a holistic view of the cycle of indebtedness connects high interest rates with failures to repay loans and, therefore, to collections proceedings and the need for asset protections, which—if improved—can lead to reduced need to enter into high-interest transactions and better financial well-being for consumers. The Court should reverse the district court's finding of a violation of NRS 295.009(1)(a).

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B. The Petition's Description Is Perfectly Adequate To Its Statutory Task

Respondents' arguments regarding the Petition's description of effect are a hodge-podge; none of them get to the heart of the matter, which is, as it always is, whether, in no more than 200 words, it "facilitates the constitutional right to meaningfully engage in the initiative process by helping to prevent voter confusion and promote informed decisions." *Helton*, 512 P.3d at 316 (quoting *Las Vegas Taxpayer Accountability Comm.*, 125 Nev. at 177). The description "must be straightforward, succinct, and nonargumentative, and it must not be deceptive or misleading." *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 41, 293 P.3d 874, 878 (2013) (internal quotation marks and citation omitted). The purpose of the description of effect of an initiative is to inform signatories to the initiative petition about the petition's subject; it does not serve as the full, detailed explanation, including arguments for and against, that voters receive prior to a general election. *Helton*, 512 P.3d at 317–18. The test for sufficiency of a description of effect is not whether Respondents are satisfied, but rather have the Petition's proponents made good-faith efforts to describe the measures proposed in ways that adequately inform the electorate in a

brief space.

Here, the Petition's description meets these standards and therefore satisfies the requirements of NRS 295.009(1)(b). It very simply and directly describes the interest-rate cap, the mechanisms in place to prevent the evasion of the cap, and the increased asset protection provisions, even with helpful reference to current exemption levels.

NFFC, for its part, complains that the description states that "currently, most consumer loans have no interest rate cape," saying that Appellants provide no basis for this assertion. NFFC Ans. Brf., at 23. They do not assert, much less establish, that this is not true—it is true, of course, self-evidently—only that no basis is provided. It is not clear what NFFC intends by this; petition descriptions are not normally accompanied by footnotes. NFFC further complains that the description does not mention that it would "delete" a host of current asset exemptions, but this is not credible. *Id.*, at 24. The Petition increases, exceeds, and subsumes current exemptions, and expressly says so in its text, complete with concrete examples. It would be both confusing and argumentative, not to mention an unnecessary waste of textual space, to state that the Petition, for example, "deletes" discretionary, potential asset protections, often pursued through a bankruptcy but not always

granted, when the Petition establishes automatic exemptions at higher level, that benefit debtors to a much greater degree. In other words, if existing wage or bank account protections are quadrupled or quintupled, and are also made self-executing rather than having to be applied for and itemized as they are currently, consumer protections have massively increased. In that context, demanding that the "deletion" of current provisions reflecting the paltry current protections be described is really a demand to confuse rather than inform the electorate. NFFC's argument on this is not well-taken.

NFFC, along with other Respondents, also take issue with the way the description treats its prohibition on evasion of the interest rate limit by "rent-a-bank" schemes. Beginning in the 1990s, certain unscrupulous lenders started to partner with state-chartered banks, in a practice known as "rent-a-bank," to evade interest rate caps by routing loans through banks chartered out of state that can "export" the interest rate of their home state to borrowers in other states. Section 14 of the Petition ensures that these lenders will not be able to use rent-a-bank schemes to evade the proposed rate cap by opting Nevada out of the federal statute, the Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA), that allows out-of-state banks to "export" their interest

rate to Nevada consumers. I AA 14. Similarly, Section 11 of the Petitions also combats rent-a-bank by making any lender whose business model is routing loans through an out-of-state bank subject to the initiative's rate cap. I AA 12–13. Both provisions are closely tied to the purposes of the rate cap itself because they ensure that it cannot be evaded.[5] The entire portions of the descriptions regarding how they "prohibit evading the interest rate cap" is devoted to this specifically, and includes reference to the Petitions' enforcement mechanisms. It is not clear how much of what remains of a 200-word space Respondents would demand be devoted to what NFFC appears to revere, a bit melodramatically, as "40 years of Nevada law." In any event, they are free, as is any petition opponent, to make this a centerpiece of their public statements, lobbying efforts, and eventual political campaign. As it is, prospective petition signers have an explanation of the provisions preventing banks from masking transactions to avoid the 36 percent interest rate cap, and will have in hand the text of the measure itself.

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[5] *See* https://oag.ca.gov/news/press-releases/attorney-general-bonta-predatory-lending-and-illegal-rent-bank-schemes-have-no (last accessed May 12, 2024), for a statement by the Office of the California Attorney General regarding DIDMCA and the proliferation of rent-a-bank schemes to evade state regulation.

For their part, Preferred Capital and DailyPay fixate on the term "predatory." That term, of course, does not appear in the description; that would likely be termed argumentative, and rightly so. But each of those Respondents want to make clear, for their own purposes, that they do not consider themselves predatory, and do not, under certain statutes, issue "loans." Fair enough, they can make those objections clear to the public in any manner they desire. But under this Petition, for the purposes of this newly-proposed statutory chapter, the listed transactions will be subject to an interest rate limitation. Preferred Capital, however, does not think it important enough to tell the Court that it and other litigation funders are *already subject* to a 40 percent annual interest rate cap under NRS 604C.310(1).[6]

There is also some fixation by Respondents upon S.B. 290 (2023), regarding earned wage access, and that somehow failing to discuss it in the description of effect misleads the voters. But again, any opponent of

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[6] *See* NRS 604C.310 Limitations on amount to be paid to consumer litigation funding company under consumer litigation funding contract.

1. A consumer litigation funding company shall require the amount to be paid to the company under a consumer litigation funding contract to be set as a predetermined amount based upon intervals of time from the funding date though the resolution date. **The amount must not exceed the funded amount plus charges not to exceed a rate of 40 percent annually**. (emphasis added).

a filed ballot measure petition could argue that *their* specific concerns should be addressed in the descriptions. Pretty quickly, however, 200 words have been consumed solely by every opponent's personal agenda. This is not the function of a description of effect. The statutorily-mandated description does not exist to convey what DailyPay fears may happen to their business model; it exists to inform the electorate that the Petition will cap annual interest rates on many common financial transactions at 36%, and will protect more of their assets should they face collection proceedings. It is the actual effect on consumers' lives, not the speculative or hypothetical effects on DailyPay, that the descriptions are required to address.

It is a commonplace now that most ballot initiatives will have a number of different effects if enacted, many of which are hypothetical in nature," and the Supreme Court has "previously rejected the notion that a description of effect must explain 'hypothetical' effects." *Educ. Initiative PAC*, 129 Nev. at 47 (quoting *Herbst Gaming, Inc. v. Heller*, 141 P.3d 1224, 1232, 122 Nev. 877, 889 (2006)). This is because,

> [w]ith so few words in which to explain the effect of an initiative petition, a challenger will always be able to find some ramification of or provision in an initiative petition that the challenger feels is not adequately(addressed in the description of effect . . . . [T]he sufficiency of a

> description of effect depends not on whether someone else could have written it better but instead on whether, as written, it is "a straightforward, succinct, and nonargumentative summary of what the initiative is designed to achieve and how it intends to reach those goals.

Helton, 512 P.3d at 317–18 (footnote omitted) (quoting *Educ. Initiative PAC*, 129 Nev. at 37); *see also Herbst Gaming, Inc.*, 122 Nev. at 889 ("A ballot measure's summary and title need not be the best possible statement of a proposed measure's intent or address every aspect of a proposal.").

Signature collectors are required to carry the entire Petition with them, so that signatories may read them in full at any time, and that the circulators sign an affidavit under penalty of perjury attesting to those facts. Furthermore, not only is the full text of both Petitions available on the website of the Nevada Secretary of State, at https://www.nvsos.gov/sos/elections/2024-petitions, but all Plaintiffs retain the freedom of speech and expression to mount whatever opposition they have to these measures at the top of their lungs, over the airwaves, and in any other medium available. The descriptions of effect appended to every signature page of the Petition, however, is real estate controlled by its proponents, and as long as they have not abused their prerogative—and here, they have not—Appellants' initiative rights

should not be obstructed.

C. The Petition Includes The Full Text Of The Measure Proposed

Full-text claims, under Nev. Const. Article 19, Section 3(1). are very much in fashion recently. Under that provision, Article 19, Section 3 of the Nevada Constitution, initiative proponents must "include the full text of the measure proposed" with their petition. Here, multiple Respondents claim, with no authority, that some other text than the text that Appellants are proposing should be included in the Petition.

One version of this argument is that the entirety of S.B. 290 must be appended to these Petitions, because otherwise "a potential signer has no meaningful way of knowing the context of the proposed Act's reference to SB 290[.]" I AA 85 (¶ 83). NFFC claims that the Petitions actually have to include the text of every other Nevada statute with which their provisions may interact or conflict. But these are not plausible readings of Article 19, Section 3's requirements, and would make initiative petitions ridiculously long, unnecessarily complex, and incredibly burdensome to propose. Any opponent could claim that the provisions of a petition interact with some other statute, and demand it be included in the petition packet. In the case of DailyPay, it is not even mere statutes

that they demand be included, because S.B. 290 appears to have enacted 30 other, new statutes. Preferred Capital could demand that all of NRS Chapter 604C be included. Every financial interest in the state could claim the same.

This would be a novel and extremely dangerous ground upon which to invalidate a proposed initiative measure, and one for which there is *absolutely* no case authority in this state. In fact, the only mention of the "full-text" requirement in any Nevada Supreme Court case came in the unpublished case of *Coalition for Nevada's Future v. RIP Com. Tax, Inc.*, 132 Nev. 956 (2016) (unpublished disposition), in dicta, when it noted that "the Nevada Constitution requires no particular form for a referendum petition, except that it include the full text of the proposed measure, as this petition does," and no party argued or raised the issue in a substantive way. *Id.* By "*this* petition," the Court in *Coalition for Nevada's Future* was referring to a referendum petition that included only 73 of the referred bill's 114 sections, so by the Supreme Court's own lights so far Plaintiffs' interpretation is an unlikely one. The recent unpublished order resolving *Schools Over Stadiums v. Danny Thompson*, 2024 WL 2138152, at *1 (Nev., May 13, 2024) (unpublished disposition), also deals with a referendum on a bill, the proponents of which

manicured improperly in presenting it to the voters, but even there the Court made no suggestion that every statute with which a measure may interact also had to be included. The nature of the vast web of law makes that an implausible notion in any event. The measure proposed in *Helton*, for example, would cause an immediate effect upon dozens of election laws; its petition text included none of them, and its description mentioned none, either. Since there is no time bar on any pre-election suits other than single-subject and description of effect violations, presumably an opponent could raise in Article 19, Section 3 suit against the RCV petition now on these grounds, and seek its invalidation.

Much more to the point, Respondents talk about how this present Petition would "amend" or "repeal" some other extant statute besides what is already included in its text. That is not actually true, as any student of statutory interpretation can testify. If two statutes arguably interact, potentially with preclusive or conflicting applications, the result is not immediate repeal of one by the other. It is, instead, a process of judicial interpretation, in a lawsuit, brought at the appropriate time and in the appropriate manner. "Implied repeal" is a matter of interpretation, as this Court well knows; it cannot be assumed. Repeal by implication "is heavily disfavored," and the Court "will not consider a statute to be

repealed by implication unless there is no other reasonable construction of the two statutes." *Washington v. State*, 117 Nev. 735, 739, 30 P.3d 1134, 1137 (2021). The Court "will look to the text of the statutes, legislative history, the substance of what is covered by both statutes, and when the statutes were amended." *Id.* In weighing its interpretation, the Court considers whether "a statute is enacted after another statute, but is subsequently amended without mention of the first statute" which "may weigh against a finding of legislative intent to repeal by implication." *Id.* The notion that the impact this Petition may eventually be found to have upon other statutes—whether S.B. 290, or some provisions of NRS Chapter 604C, or any others—after thorough argument and briefing in some future lawsuit (possibly even brought by these Respondents) cannot possibly be considered predictable enough to require inclusion of discussion of "repeal" in a description of effect, much less sufficiently certain to demand the Petition be invalidated for not including the text of statutes outside of its express terms. The canons and processes of statutory interpretation require one to admit that the effect of this Petition on some other provisions of law may turn out to be no effect at all.

The Petition does not change a single word of S.B. 290, and every other amendment it enacts is included in full in its pages. It deals with issues upon which S.B. 290 is entirely silent: interest rate caps for financing consumer transactions. The Petition contains every provision that is proposed to be circulated for signatures and considered by the electorate, and it complies with Article 19, Section 3(1).

III. CONCLUSION

Based upon the foregoing, the Court should reverse the district court.

DATED this 15th day of May, 2024.

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CERTIFICATE OF COMPLIANCE

I certify that this Brief complies with the formatting requirements of N.R.A.P. 32(a)(4), the typeface requirements of N.R.A.P. 32(a)(5) and the type style requirements of N.R.A.P. 32(a)(6) because it has been prepared in a proportionally-spaced typeface, size 14, Century Schoolbook.

1. I further certify that this Brief complies with the type volume limitations of N.R.A.P. 32(a)(7) because, excluding the parts of the Motion exempted by N.R.A.P. 32(a)(7)(C), it contains 5,661 words.

2. Finally, I hereby certify that I have read this 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, in particular N.R.A.P. 28(e)(1), 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

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

DATED this 15th day of May, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2024, a true and correct copy of **APPELLANTS' OMNIBUS REPLY BRIEF** was served upon all counsel of record by electronically filing the document using the Nevada Supreme Court's electronic filing system:

By: */s/ Dannielle Fresquez*
Dannielle Fresquez, an Employee of
BRAVO SCHRAGER LLP