



NEVADA LEGISLATURE
NEVADA TASK FORCE ON FINANCIAL SECURITY
(Senate Bill 118 [Chapter 220, *Statutes of Nevada*, 2017])

SUMMARY MINUTES

The fourth meeting of the Nevada Task Force on Financial Security for the 2017–2018 Interim was held on Monday, May 21, 2018, at 2 p.m. in Room 4401, Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3137, Legislative Building, 401 South Carson Street, Carson City, Nevada.

The agenda, minutes, meeting materials, and video or audio recording of the meeting are available on the Task Force’s [meeting page](#). In addition, copies of the audio or video record are available through the Legislative Counsel Bureau’s Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835) and may also be available at <http://www.leg.state.nv.us/Granicus/>.

TASK FORCE MEMBERS PRESENT IN LAS VEGAS:

Assemblywoman Irene Bustamante Adams, Chair
Senator Joyce Woodhouse
Assemblywoman Ellen B. Spiegel
Nancy E. Brune, Ph.D.
Michele Johnson

TASK FORCE MEMBERS PRESENT IN CARSON CITY:

Senator Julia Ratti, Vice Chair
Senator Pete Goicoechea
Assemblyman Al Kramer

TASK FORCE MEMBER ATTENDING VIA TELECONFERENCE:

Cyndy Ortiz Gustafson

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Marjorie Paslov Thomas, Senior Principal Policy Analyst, Research Division
Mindy Martini, Principal Policy Analyst, Research Division
Bryan Fernley, Senior Principal Deputy Legislative Counsel, Legal Division
Michael K. Morton, Senior Deputy Legislative Counsel, Legal Division
Jan Brase, Research Policy Assistant, Research Division

Items taken out of sequence during the meeting have been placed in agenda order.

AGENDA ITEM I—OPENING REMARKS

Chair Bustamante Adams welcomed the presenters and public to the fourth meeting of the Nevada Task Force on Financial Security. She discussed the procedures for Task Force business and testimony.

AGENDA ITEM II—PUBLIC COMMENT

Chair Bustamante Adams called for public comment; however, no testimony was presented.

AGENDA ITEM III—APPROVAL OF MINUTES OF THE MEETING HELD ON MARCH 21, 2018

MOTION: Assemblywoman Spiegel moved to approve the minutes of the March 21, 2018, meeting. The motion was seconded by Senator Woodhouse and passed unanimously.

AGENDA ITEM IV—PRESENTATION AND DISCUSSION ON REGULATING TAX RETURN PREPARERS

Viki A. Windfeldt, Executive Director, Nevada State Board of Accountancy, gave a presentation on issues relating to the regulation of tax return preparers ([Agenda Item IV](#)).

Discussion ensued regarding existing criminal penalties for filing fraudulent tax returns, the regulatory distinctions between enrolled agents and unenrolled return preparers, and statutory requirements of Assembly Bill 324 (Chapter 47, *Statutes of Nevada 2017*).

Chair Bustamante Adams indicated that a request for a presentation and update on the enactment of AB 324 will be forwarded to the Secretary of State.

AGENDA ITEM V—PRESENTATION ON ASSET LIMITS IN PUBLIC BENEFIT PROGRAMS

Holden Weisman, Senior State and Local Policy Manager, Prosperity Now, shared a presentation on public assistance asset limits and compared Nevada's policies with those of other states ([Agenda Item V](#)).

Chair Bustamante Adams noted the report found that removing asset limits can reduce public assistance caseloads. She asked whether a reduced caseload means that recipients have transitioned off welfare to self-reliance. Mr. Weisman offered to research and provide the requested information.

Discussion ensued among Task Force members and Mr. Weisman regarding variations in asset limit amounts among the states, key asset categories, and asset limits as they relate to disabled individuals.

Naomi Lewis, Deputy Administrator, Program and Field Operations, Division of Welfare and Supportive Services, Department of Health and Human Services, provided information on: (1) the Temporary Assistance for Needy Families (TANF); (2) program and resource limits for eligibility for TANF; (3) the Supplemental Nutrition Assistance Program; (4) Medical Assistance to the Aged, Blind, and Disabled; and (5) the Energy Assistance Program.

Senator Ratti and Ms. Lewis discussed TANF asset limits as a deterrent to clients establishing savings accounts. Ms. Lewis remarked that in the past few years, 33 applicants have been denied benefits because their savings accounts exceeded the TANF asset limit of \$6,000. She noted the application of an asset limit can be misunderstood by potential applicants and can discourage them from building a savings account.

Assemblyman Kramer asked for information relating to Nevadans' savings rates.

Mr. Weisman noted that 44 percent of Nevada households are considered to be liquid asset poor, which is defined as not having savings sufficient to cover basic expenses at the poverty level for three months. He explained this would require savings of approximately \$6,100 for a family of four.

Discussion ensued among Task Force members and Ms. Lewis relating to: (1) the TANF caseload; (2) work and eligibility requirements; (3) effect on the TANF program after raising asset limits; and (4) program applicants' level of debt.

AGENDA ITEM VI—OVERVIEW AND DISCUSSION OF SHORT-TERM LENDING AND CONSUMER PROTECTIONS AS THEY RELATE TO FINANCIAL SECURITY

Holden Weisman, previously identified, provided an overview of consumer protection in Nevada highlighting the following: (1) savings; (2) banking; (3) debt collection and predatory lending practices; and (4) policy recommendations ([Agenda Item VI A](#)).

Discussion ensued among Task Force members and Mr. Weisman regarding caps on fees for dishonored checks and consumer protections for members of the military.

Bryan Fernley, previously identified, provided an overview of the provisions of Chapter 604A, ("Deferred Deposit Loans, High-Interest Loans, Title Loans and Check-Cashing Services") *Nevada Revised Statutes* (NRS), which is the chapter of State law that governs short-term loans and check-cashing services and changes that were made to the chapter during the last Legislative Session.

Mr. Fernley noted the chapter is administered by the Commissioner of Financial Institutions (CFI) and the staff of the Division of Financial Institutions of the Department of Business and Industry. The commissioner licenses businesses that operate under Chapter 604A and adopts regulations for and enforces the provisions of the chapter. In addition, the commissioner charges licensees for the costs of any supervision, audit, examination, investigation, or hearing conducted of the licensee. He explained that AB 279 (Chapter 93, *Statutes of Nevada 2017*) changed the \$80 per hour fee for

supervision, audit, examination, investigation, or hearing to a rate established by the commissioner. The bill also requires the commissioner to end or annually adjust the rate by regulation if he or she deems such an adjustment necessary.

Mr. Fernley said AB 255 (Chapter 168, *Statutes of Nevada 2017*) added an exemption to Chapter 604A for a person or business in Nevada that exclusively extends credit to a person who is not a resident of Nevada for any business, commercial, or agricultural purpose.

Mr. Fernley noted that AB 163 (Chapter 274, *Statutes of Nevada 2017*) was the final bill making changes to the chapter during the last session. He provided an overview of the four types of businesses licensed under Chapter 604A:

1. Check-cashing services are unique under Chapter 604A because they do not offer loans. Businesses only cash checks and charge a customer a fee for cashing the check. For the purposes of the chapter, a check is defined very broadly to include any type of check, including a paycheck, a personal check, cashier's check, money order, or any other draft payable on demand and drawn from a bank. The crucial element is that the check be currently payable, otherwise the transaction would be a loan service and not a check-cashing service;
2. Deferred deposit loans are what many people think of as payday loans. Under state law a "for-deposit loan" is a very specific type of transaction whereby the customer receives money. In exchange for the money, the customer gives the licensee either a personal check drawn on the customer's bank account or written authorization for the licensee to electronically withdraw money from the customer's account. The transaction is a loan because the licensee agrees not to cash the check or electronically withdraw the money from the customer's account until a future date has been agreed upon by the customer and the licensee;
3. High-interest loans are loans with an annual percentage rate (APR) of more than 40 percent. This is essentially a catch-all category to describe loans with an APR of more than 40 percent that are not deferred deposit loans or title loans;
4. Title loans are loans to a customer who receives money and agrees to repay the money in installments or on a day in the future, and the licensee takes possession of the title of the customer's car. The car is the collateral for the loan. Assembly Bill 163 added additional regulations for title loans prohibiting a licensee from making a title loan to a customer secured by a vehicle, which the customer does not legally own. Additionally, a licensee is prohibited from making a title loan, which is secured by a vehicle legally owned by multiple persons, without the consent of each owner of the vehicle. The car that is given as collateral for the title loan must be the customer's car or a car owned by the customer and other persons with each person consenting to the loan.

Mr. Fernley stated each of the four types of services regulated under Chapter 604A, is a separate license, but one business may be licensed to offer multiple types of services.

Mr. Fernley clarified that a deferred deposit loan or a title loan is governed by Chapter 604A regardless of the APR. If a loan is not a deferred deposit loan and is not a title loan, but the loan

still charges an APR of more than 40 percent, then the loan is a high-interest loan governed by Chapter 604A.

Mr. Fernley pointed out that AB 163 made a change to the definition of a high-interest loan. Under the bill, a business that leases an animal and charges an APR of more than 40 percent would not be licensed as a high-interest loan service, and the terms of the lease do not have to comply with requirements of high-interest loans under Chapter 604A.

Mr. Fernley discussed the “term” of a loan, which is the length of time the customer has to repay a loan:

- In general, the original term of deferred deposit loans and high-interest loans cannot exceed 90 days, which includes extensions, roll-overs, and refinancing. The loan is required to be paid 90 days after the origination of the loan;
- With respect to repayment terms for deferred deposit loans, AB 163 requires a licensee to allow a customer to enter into an extended repayment plan that allows the customer to repay a loan by making four more payments over a period of at least 60 days. Before this provision was enacted, deferred deposit loans would typically be repaid by a single payment at the end of the term of the loans;
- The licensee is required to allow a customer to enter into the extended payment plan if the customer has not entered into such a plan within the last 12 months, and the payment plan is requested before the loan is due. The extended repayment plan must not increase or decrease the amount owed under the loan or include any additional interest or fees not included under the original terms of the loan;
- The original term of a title loan must be not more than 30 days. Title loans can be extended for six additional 30-day periods, meaning that the final date to repay a title loan cannot be later than 210 days after the original loan date. There is an ability to have the original term of the loan up to 210 days, but, in that case, there would be no extensions. The loan must not be a deferred deposit loan, and it must provide for installment payments in equal, periodic amounts and allow for full payment in the 210-day period; and
- Terms of loans and the length of extensions are important for determining when a customer is in default, which triggers the applicability of several provisions in NRS.

Continuing, Mr. Fernley discussed borrowing limits:

- Deferred deposit loans or any combination of deferred deposit loans from the same licensee must not be issued for a total amount exceeding 25 percent of the expected gross monthly income of the customer;
- High-interest loans or any combination of high-interest loans from the same licensee must not be for a total amount exceeding 25 percent of the expected gross monthly income of the customer; and

- Title loans are limited to the fair market value of the vehicle securing the title loan. Prior to the enactment of AB 163, only title loan services were required to consider the customer's ability to repay when issuing a loan.

Concerning a customer's ability to repay loans, Mr. Fernley clarified:

- Assembly Bill 163 extended the requirement to consider the customer's ability to repay all types of loans governed by Chapter 604A. The bill also set forth the factors that a licensee must consider when determining the ability to repay, and whose ability to repay can be considered. The bill requires licensees to consider only the customer's ability to repay a loan, or in the case of a title loan, only the ability to repay of the person who is the legal owner of the vehicle. Under this provision, the licensee cannot rely on the income, assets, or credit of some other person in considering the ability to repay the loan; and
- In the case of a title loan, the income, assets, or credit of someone other than the legal owner of the vehicle cannot be considered. Only those who are owners of the vehicle can consent to the loan.

In regard to regulations under Chapter 604A, which are relevant to all licensees, Mr. Fernley said:

- A licensee must post a conspicuous notice pertaining to fees charged for services and provide a toll-free telephone number of the CFI to make a complaint;
- The posted notice must clarify that if a customer defaults on a loan, the licensee must offer a repayment plan to the customer before filing a civil action, beginning a process of dispute resolution, or repossessing a vehicle;
- The posted notice must include a description of the process for filing a complaint with the CFI;
- Before entering into a loan covered by Chapter 604A, a customer must receive a written loan agreement, which includes certain information about the loan including: the amount financed, the annual percentage rate, the finance charge, payment schedule, and the amount of every fee charged;
- A customer is entitled to rescind the loan on or before the close of business on the next business day at the location where the customer initiated the loan;
- For all types of loans, a customer is in default if the customer does not make a scheduled payment or pay the loan in full as required by the terms of the loan agreement. The term of the loan agreement, which sets forth the length of time the customer has to repay the loan, determines whether the customer is in default; and
- Under AB 163, the term of the loan agreement must be consistent with the rule discussed earlier about how long a long term can be. The official date of the default is the day after the payment was due. One exception to the default rule for all loans governed by Chapter 604A is that the

licensee may offer the customer a grace period during, which the customer will not be deemed in default and during which the customer may make a payment on the loan.

Mr. Fernley discussed changes to rules governing grace periods as outlined in AB 163:

- Licensees are prohibited from granting a grace period for the repayment of a loan to a customer for the purpose of artificially increasing the amount which the customer would otherwise be qualified to borrow;
- Licensees are prohibited from conditioning the extension of a grace period on making a new loan agreement or changing the original loan agreement for which a grace period has been offered; and
- If a grace period is offered, the licensee cannot charge interest in excess of the rate agreed upon in the original loan agreement.

Concluding, Mr. Fernley explained the default process:

- Once a customer has entered into default, the licensee is limited to collecting only the unpaid principal, the unpaid interest accrued before the default at the APR set forth in the disclosure statement, the interest accrued after the expiration of the loan period at the APR not to exceed the prime rate of the largest bank in Nevada plus 10 percent+, and any fee for a returned check;
- After default, the APR for interest accrued after expiration of the term of the loan is much lower than the APR that is charged during the term of the loan. No additional interest can be charged 90 days after default;
- Licensees cannot commence civil action, collect payment, or repossess a vehicle without offering the customer an opportunity to enter into a repayment plan; and
- Detailed statutory requirements relating to repayment plans include when they must be offered, how long offers must be open, and terms of offers. Repayment plans can be extended up to 90 days and, at the option of the licensee, may require an initial payment of up to 20 percent of the balance due. Repayment plans end when the full balance is paid.

Discussion ensued among Task Force members and Mr. Fernley regarding regulation of short- and long-term loans and caps on interest rates.

Bailey Bortolin, Representative, Legal Aid Center of Southern Nevada and Tennille Pereira, Staff Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada shared a presentation on short-term lending and consumer protection, emphasizing support for the development of a centralized loan database ([Agenda Item VI B-1](#)). Ms. Bortolin referenced an [audit report](#) completed by the Audit Division, Legislative Counsel Bureau, (LCB), which found that nearly one-third of Nevada payday lenders have received a less-than-satisfactory rating from state regulators over the past five years. Concluding, Ms. Bortolin mentioned an [article](#) related to the LCB audit report and

a fact sheet outlining current Nevada payday and title loan laws and consumer protections ([Agenda Item VI B-2](#)).

In response to a question from Ms. Brune, Ms. Pereira described provisions of NRS relating to exceptions to limitations on using proceeds of a new loan to pay the balance of an outstanding loan.

Senator Goicoechea expressed a number of concerns about the efficacy of a statewide database for loans subject to Chapter 604A.

Ms. Pereira noted that a database would provide the opportunity to protect Nevadans who are experiencing a financial crisis and prevent them from falling deeper in debt. She stressed that other states using a similar program have found that the consumer protection benefits far outweigh the challenges.

Ms. Bortolin remarked that a statewide loan database would be a useful means of ensuring that consumer protection laws are enforced.

Dennis Shaul, Chief Executive Officer, CFSASM, offered remarks relating to payday lending including: (1) description of variety of regulated payday lending providers and their products; (2) growing concerns about ubiquitous unregulated on-line payday lenders; (3) interest rates; (4) the importance of reliable data relating to borrowers; and (5) efforts of responsible lenders to provide a valuable service.

James T. Marchesi, Manager, Check City Partnership, L.L.C., Las Vegas, Nevada, provided remarks relating to his company and other businesses operating under Chapter 604A and highlighted: (1) his company's business model; (2) customer satisfaction; (3) the role of the Community Financial Services Association of America in assisting the formulation of Chapter 604A; (4) the clarity provided by AB 163; and (5) the availability and transparency of data relating to businesses operating under Chapter 604A.

AGENDA ITEM VII—PRESENTATION ON RETIREMENT SECURITY PROGRAMS

Sarah Mysiewicz Gill, Senior Legislative Representative, AARP, provided a presentation on Nevada's retirement security gap ([Agenda Item VII A](#)) and discussed the following: (1) the increasing risk of financial insecurity in retirement; (2) employees who do not have access to workplace savings plans; and (3) state programs aimed at assisting workers to save for retirement.

Kate Marshall, former State Treasurer, State of Nevada, offered a presentation related to state-supported retirement programs for workers who do not have employer-sponsored savings plans and proposed legislation ([Agenda Item VII B](#)). She focused on: (1) benefits to employees and savings to taxpayers; (2) increased retirement security; (3) benefits to small businesses; (4) program structure; (5) start-up costs; (6) experiences of other states; and (7) the need to support the growing number of workers who do not have a retirement savings program.

Discussion ensued among Task Force members, Ms. Gill, and Ms. Marshall concerning the proposed opt-out program, including:

- Types of investment plans;
- Allocation of fees;
- Contribution limits;
- Access to the program for independent contractors or sole proprietors;
- Reasons employees in other states choose to opt out;
- Benefits of offering an opt-in program;
- Integration with payroll processing companies;
- Compliance with federal requirements; and
- Other states' program designs and composition of oversight boards.

AGENDA ITEM VIII—PUBLIC COMMENT

Lynne E. Keller, Executive Director, Opportunity Alliance Nevada, submitted a letter advocating the establishment of a statewide database for all loans made pursuant to Chapter 604A ([Agenda Item VIII](#)).

Bryan Wachter, Senior Vice President of Public and Government Affairs, Retail Association of Nevada, was encouraged by efforts to expand retirement savings options for Nevada's workers and suggested that by continuing to improve financial literacy, participation rates will increase.

AGENDA ITEM IX—ADJOURNMENT

There being no further business to come before the Task Force, the meeting was adjourned at 5:28 p.m.

Respectfully submitted,

Jan Brase
Research Policy Assistant

Marjorie Paslov Thomas
Senior Principal Policy Analyst

APPROVED BY:

Assemblywoman Irene Bustamante Adams, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	WITNESS/ENTITY	DESCRIPTION
Agenda Item IV	Viki A. Windfeldt, Executive Director, Nevada State Board of Accountancy	Written testimony
Agenda Item V	Holden Weisman, Senior State and Local Policy Manager, Prosperity Now	Presentation on eliminating or lifting asset limits
Agenda Item VI A	Holden Weisman, Senior State and Local Policy Manager, Prosperity Now	Presentation on consumer protection in Nevada
Agenda Item VI B-1	Bailey Bortolin, Representative, Legal Aid Center of Southern Nevada	Presentation on short-term lending and consumer protection
Agenda Item VI B-2	Bailey Bortolin, Representative, Legal Aid Center of Southern Nevada	Fact Sheet Current Laws and Consumer Protections
Agenda Item VII A	Sarah Mysiewicz Gill, Senior Legislative Representative, AARP	Presentation on Nevada's retirement security gap
Agenda Item VII B	Kate Marshall, Former State Treasurer, State of Nevada	Presentation on workers' retirement programs
Agenda Item VIII	Lynne E. Keller, Executive Director, Opportunity Alliance Nevada	Letter

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