LWVNE Study of Payday Lending: a Progress Report

Prepared by Liz Rea, LWVNE Vice President Action

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This report is the result of action taken by the 2010 LWVNE Council to study the issue of payday lending with a focus on its impact on Nebraska families. It is in alignment with LWVUS Public Policy positions for 2010-2012 and is specific to the organization's stance on Social Policy. It states, "Secure equal rights and equal opportunity for all. Promote social and economic justice and the health and safety of all Americans." Lincoln/Lancaster County League President, Patte Newman, and Mary Boschult, President-Elect, contributed to this report. The study committee reviewed a variety of sources of information to learn about the issues surrounding payday lending at the local, state and national level. A listing of the sources is found at the end of this report.

In Nebraska, payday lending companies are licensed and regulated by the Nebraska Department of Banking and Finance under the Delayed Deposit Services (DDS) Licensing Act of 1994. Payday lenders came into vogue when finance companies and banks stopped providing loans to consumers in the $50-$500 range. "Payday loans" are designed to be a short-term solution for the consumer who is short of cash to meet the financial obligations of an unplanned or emergency situation or as a way of covering expenses until the next paycheck. The payday lender holds a consumer's post-dated personal or business check for a fee as pre-payment for the loan. State law defines such businesses as "delayed deposit services", more commonly known as "payday lenders" or "payday advance companies". Payday lenders profit from the high fees charged for their services in terms of the size and duration of the loans they make available.

Under Nebraska law, DDS companies can only charge up to a maximum fee of $15 for every $100 of the loan amount, which can equate to annual interest rates of 460 percent. Companies can only hold a post-dated personal or business check as collateral for a maximum 34-day period. The check held cannot exceed $500 from a single individual. DDS companies can only charge $15 for non-negotiable or "bounced" checks, which have been presented, to the borrower's financial institution as payment for the loan.

Although payday loans are relatively easy to get, they often trap consumers in a cycle of debt due to excessive fees and a high frequency of loan rollovers. Fees on such loans can diminish a borrower's ability to pay back the loan in full by the next pay period (2-4 weeks duration) or to cover everyday expenses once the loan is paid. As a result, when a consumer is unable to pay back the loan in full, the payday lender and the consumer begin to "churn" loans. In this case, the lender closes out the existing loan only to open a new loan with a new fee attached. Nationally, 76% of loan volume at payday lenders is the result of "loan churning" that costs borrowers $3.5 billion in fees annually. Nationwide, payday loan consumers average nine loans per year. The "churning" practice drains local economies of millions of dollars each year. Nationally, only 2% of payday borrowers can afford to pay off their loan the first time and walk away without getting another loan that year. A recent study of payday lending in the Omaha metro area revealed that only 15% of respondents indicated their payday loans were repaid with the original postdated check.

In 2009, Nebraska had 218 payday lending stores throughout the state. The average payday loan size was $350, and the fee per $100 of loan was $15. The average number of payday loans per store was 3,643 on an annual basis. The annual percentage rate of interest on two-week $100 loans was 460%. The maximum loan amount was $500.

Also in 2009, Senator Amanda McGill, LD 26, introduced LB 431 to make necessary changes to strengthen Nebraska's current Delayed Deposit Services statute. Unfortunately, the bill did not make it out of the Banking, Commerce and Insurance Committee for debate on the Unicameral floor. On December 30th, I visited by phone with Rachel Boyer, Senator McGill's legislative aide, and learned that the senator plans to introduce another bill similar to LB 431 in the 2011 legislative session. It will contain a provision that would create a database of information regarding payday borrowers that will prohibit payday lenders from making loans available to consumers who already have a payday loan. The bill is the result of efforts of the Payday Lending Working Group, a coalition of organizations whose representatives have met over the past several months to tackle the issues created by payday lending. Once we know more about what the proposed bill contains, I believe we ought to seriously consider whether we can support it and advocate for its passage.

In conclusion, our review of information regarding payday lending and the problems it creates has been revealing. The cycle of debt that all too many payday borrowers get trapped in keeps families in Nebraska and across the country from having a stable and secure income to meet their everyday expenses and fully participate in their community and our economy. The League of Women Voters of Nebraska places a high priority on economic justice. In that light, it is important that we do everything we can to make it a reality for all Nebraskans.

Sources Reviewed for LWVNE Payday Lending Study, 2010-2011

1. "Delayed Deposit Services in Nebraska, What you should know about payday advances", brochure, Nebraska Department of Banking and Finance, 2008.

2. "Lincoln's Impact of Payday Lending on Low-Income Families and Community Services Study Overview and Initial Literature Review", Lancaster County Community Services Initiative, January 2010.

3. "Alternative Financial Service Use by Low Income Lincoln Residents"—Preliminary Data Report, UNL, Center on Children, Families, and the Law for the Community Services Initiative and Human Service Federation, October 2010.

4. "Payday Lending/Cash Advance Locations Lincoln", March 2010, UNL, Center on Children, Families, and the Law for the Community Services Initiative.

5. "Payday Lending's Economic Impact on the Omaha Metro Area Key Findings", Honey Creek Resources Inc. on behalf of Financial Stability Partnership, February 2009.

6. "Payday Lending Fact Sheet for Omaha Metro Area", Honey Creek Resources Inc. on behalf of Financial Stability Partnership, December 2008.

7. "Payday Lending in Nebraska—LB 431", Opportunity at Work, Omaha, NE, 2010.

8. Rachel Boyer, Legislative Aide for Senator Amanda McGill, telephone conversation regarding proposed payday lending legislation, December 30, 2010.

9. Aubrey Mancuso, Economic Policy and Research Coordinator, Voices for Children, Omaha, NE, meeting with her regarding sources of information for payday lending study, October 1, 2010.

10. "Payday Lending Protections, 2009-2010 Assets & Opportunity Scorecard", Center for Enterprise Development (CFED), September 2009.

11. "Racial Predatory Loans Fueled U.S. Housing Crisis, Study Says", by Nick Carey, Reuters, October 4, 2010.

12. "A Cycle of Debt, Kentucky Families Share Their Experiences with Payday Lending and Other High-Cost Financial Services", Kentucky Youth Advocates, June 2009.

13. "North Carolina Consumers After Payday Lending: Attitudes and Experiences with Credit Options", Center for Community Capital, UNC College of Arts and Sciences, November 2007.

14. "A Template for Success: The FDIC's Small-Dollar Loan Pilot Program", FDIC Quarterly, 2010, Volume 4, No. 2.