INFiN℠ A Financial Services Alliance

March 22, 2021

<u>Via Email: Suzanne.nelson@senate.ks.gov</u>
The Honorable Jeffrey S. Longbine
Kansas State Senate
Committee on Financial Institutions and Insurance
Kansas State Capitol
300 SW 10th Street
Topeka, KS 66612

Re: SB 218-Oppose

Dear Chairman Longbine and Members of the Committee:

On behalf of INFiN, a Financial Services Alliance[1], the leading national trade association representing the diverse and innovative consumer financial services industry, we are writing to voice strong opposition to SB 218 (the "Bill"). **This bill would deny Kansas residents access to the regulated, short-term, small-dollar credit on which they occasionally rely, and decimate a regulated industry that currently operates more than 300 storefront locations (and online) across the state and that employs thousands of Kansans.**

Many hardworking families in Kansas and across the country struggle to make ends meet and live paycheck to paycheck. The Federal Reserve reported nearly four in 10 American adults do not have $400 to cover an unexpected expense without selling something or borrowing money – circumstances that no doubt have only been further exacerbated by the COVID-19 pandemic.[2] In fact, a recent *Marketplace* survey found that nearly half of all Americans would have trouble paying for an unexpected $250 bill, and one-third of Americans have less income than before the pandemic.[3] **The subject bill does nothing to address Kansans' financial needs; instead, it would eliminate a regulated credit option.** This legislation amounts to an effective ban through an interest rate cap that would prevent lenders from covering basic operating expenses, including employee salaries, rent and utilities, leaving them unable to continue to provide needed financial services.

In today's credit market, regulated consumer financial services providers like INFiN members provide middle-income consumers with critical access to credit when other financial institutions do not fully serve them. **This has been especially important during the pandemic; it is why the federal government[4], and the governments of all 50 states, including Kansas[5], designated our operations as essential.** This designation

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[1]About INFiN. www.infinalliance.org
[2] The Federal Reserve. (2020) Report on the Economic Well-Being of U.S. Households in 2019. Accessed at: https://www.federalreserve.gov/publications/2020-economic-well-being-of-us-households-in-2019-dealing-with-unexpected-expenses.htm
[3] Marketplace. (October 2020) "Nearly half of Americans would have trouble paying an unexpected $250 expense." Accessed at: https://www.marketplace.org/2020/10/15/nearly-half-of-americans-would-have-trouble-paying-an-unexpected-250-expense/
[4] See Cybersecurity & Infrastructure Security Agency, Guidance on the Essential Critical Infrastructure Workforce, available at https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce, and Statement by Steven T. Mnuchin on Essential Financial Services Workers, issued March 24, 2020. Accessed at: https://home.treasury.gov/news/press-releases/sm956.
[5] See Executive Order establishing the Kansas Essential Function Framework for COVID-19 response efforts (Executive Order No. 20-15), issued by Governor Laura Kelly on March 24, 2020. Accessed at: https://governor.kansas.gov/wp-content/uploads/2020/03/EO20-16.pdf

enabled our members to continue to operate, serving millions of Americans at a time when banks and other financial institutions were closed or operating on extremely limited schedules. While fewer people are currently choosing small-dollar loans, it is important that those who do need such loans now, and in the future, are able to access regulated forms of credit from transparent and trustworthy lenders.

In our function as essential, regulated providers, INFiN members work with every customer to give them the flexibility and understanding they need, offering a variety of solutions based on what will work best for their personal financial situation. Many members also offer other valuable services – such as check cashing, bill payment, and money transfers – that have proven especially impactful during the pandemic, enabling customers to access government relief funds, including in particular Economic Impact Payments ("EIPs") approved by Congress under the recently signed American Rescue Plan; effectively manage their obligations; and help family and friends. Kansans' ability to access these other essential financial services would be decimated by the restrictions designed to effectively eliminate small-dollar lending.

INFiN strongly believes that a regulated small-dollar lending market is in the best interest of consumers, balancing access to credit with critical consumer protections. Nearly every aspect of our industry is regulated at the state and federal levels, and our members operate in strict compliance with all applicable laws. Kansas' existing small-dollar lending laws feature effective guard rails while ensuring consumers have convenient, regulated options for different needs and circumstances. In fact, a small-dollar loan's fee – a one-time, flat $15 per $100 borrowed for a two-week loan in Kansas – often proves to be less expensive than the costs associated with other alternatives, including unregulated Internet loans, overdraft usage, bounced checks, late payments to credit card companies, and utility reconnections.

Our members disclose this fee as both a dollar amount and an annual percentage rate (APR), so that borrowers can compare our services with other credit options. However, APR does not reflect the cost of a short-term loan, but rather the cost of borrowing that loan every two weeks for a year. The loans offered by our members are repaid in a matter of weeks, not years. Under the interest rate cap proposed in this bill, a lender's revenue on a $100 loan would be just $1.38 – a rate at which no provider could sustainably lend without subsidy. As a result, our members would have little choice but to close their doors, release their employees, and abandon their customers.

Kansans' need for credit will not disappear if regulated small-dollar loans are eliminated. Without access to loans from licensed lenders, they will suffer the consequences of unmet financial obligations, or be forced to resort to more expensive or less regulated options. Further, while some bank, credit union, and non-profit programs in Kansas and nationally are touted as "alternatives" to small-dollar loans, these options are not always broadly available and typically involve a variety of restrictions and confusing fee structures. For instance, some providers who claim they can operate under such a low interest rate cap serve only a narrow band of subprime borrowers, leaving consumers with lower scores without regulated credit options. If these providers can offer an equal or superior product for a lower cost in the existing competitive marketplace, consumers will choose them. However, it seems unlikely they are capable of meeting consumers' credit needs at the scale necessary for promoting widespread financial inclusion and stability. As such, while they provide another choice for consumers, they cannot be considered a legitimate replacement for widely accessible, regulated small-dollar loans.

In the absence of regulated small-dollar loans, unregulated options stand to fill the void, as they have in other states that have implemented prohibitions and excessive restrictions on regulated lending. A quick Google search for payday loans – even in states that prohibit them – results in hundreds of thousands, even millions of unlicensed lenders. Online lenders based outside of the U.S., outside the jurisdiction of state regulators, offer loans that involve higher costs than traditional short-term loans and none of the consumer protections that regulated companies provide, such as full disclosure of all loan terms, fair collection practices or extended payment plans. They are not subject to state examinations, lender compliance standards or formal complaint processes. North Carolina, Georgia, Oregon, and South Dakota are just a few of the states that have reported substantial increases in the number of residents borrowing illegal, unregulated loans after implementing outright or effective small-dollar loan bans. Simply put, a prohibition on regulated small-dollar loans will only increase the number of residents borrowing illegal, unregulated loans.

The Kansas legislature would do well to consider the real-world experience and satisfaction of consumer financial services customers. Borrowers in Kansas and across the country appreciate regulated small-dollar loans for their simplicity, cost-competitiveness, and transparency. In research from Global Strategy Group (D) and Tarrance Group (R), 94 percent of those surveyed felt that small-dollar loans can be a sensible decision when consumers are faced with unexpected expenses, and 96 percent said they fully understood how long it would take to pay off their loan and the finance charges they would pay before taking out the loan.[6] Regulated small-dollar loans are also the subject of very few consumer complaints. In 2019, just 0.6 percent of consumer complaints received by the Consumer Financial Protection Bureau ("CFPB"), our industry's federal regulator, were about small-dollar lenders.[7] A report from July 2020 revealed that out of the approximately 187,547 consumer complaints the CFPB received in 2020 to date, only 0.4 percent were about small-dollar lenders.[8]

As you consider this legislation, INFiN is committed to working with you to identify ways to help meet Kansans' financial needs and preserve their access to regulated credit options. Taking away this regulated option, as SB 218 would do, will do little to address Kansas residents' need for credit or to ease the challenges they face. Thank you for your consideration of our position.

Respectfully submitted,

Edward D'Alessio
Executive Director

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[6] Global Strategy Group & Tarrance Group. (2016) Borrower and Voter Views of Payday Loans. Accessed at: https://www.cfsaa.com/files/files/GSG%20Tarrance%20CFSA%20Borrower%20and%20Voter%20Survey-Analysis.pdf

[7] Consumer Financial Protection Bureau. (2020) Consumer Response Annual Report: January 1 – December 31, 2019. Accessed at: https://files.consumerfinance.gov/f/documents/cfpb_consumer-response-annual-report_2019.pdf

[8] Consumer Financial Protection Bureau. (2020) Complaint Bulletin: Complaints mentioning coronavirus keywords. Accessed at: https://files.consumerfinance.gov/f/documents/cfpb_july-complaint-bulletin_coronavirus-complaints_2020-07.pdf