SPPI SOUTHWEST PUBLIC POLICY INSTITUTE

February 23, 2025

Senate Labor and Commerce Committee
Alaska State Legislature
Alaska State Capitol
120 4th Street
Juneau, AK 99801

Subject: Opposition to Senate Bill 39 Based on Empirical Research and Consumer Credit Concerns

Honorable Members of the Alaska State Legislature,

As President of the Southwest Public Policy Institute, I am dedicated to advancing policies that ensure financial health and equitable access to credit. I am writing to express strong concerns regarding Senate Bill 39, which seeks to impose a 36% rate cap on consumer credit products. While well-intended, this measure risks cutting off access to essential financial tools for Alaskans, particularly low-income and underbanked consumers, as demonstrated by our extensive research.

Our studies, *No Loan For You!* and *No Loan For You, Too!*, document the real-world consequences of similar rate caps, particularly in New Mexico, where borrowers have faced shrinking credit options and increasing financial distress. Rather than benefiting consumers, such restrictions have forced them into costlier, less regulated alternatives.

A key finding from our research is that traditional financial institutions—both banks and credit unions—have failed to provide viable alternatives to the products eliminated by rate caps. Our consumer emulation studies highlight these failures in action. For example, Wells Fargo's highly publicized *Flex Loan* program claims to offer emergency credit, yet our investigation revealed it to be inaccessible to many consumers due to unclear eligibility requirements, arbitrary account closures, and a lack of transparency in the approval process. Consumers seeking short-term loans through Wells Fargo often find themselves caught in a bureaucratic maze with no clear path to approval.

Similarly, our research into credit union lending shows that *Payday Alternative Loans* (PALs) are largely unavailable to the consumers they are supposed to serve. We tested 15 credit unions in New Mexico, and 86% either denied membership, lacked small-dollar loan programs, or imposed such restrictive requirements that the loans were effectively inaccessible. Even for a

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well-qualified borrower with an established financial history, obtaining a small-dollar loan from these institutions proved nearly impossible.

These findings underscore a crucial reality: when policymakers cap interest rates, they do not eliminate demand for small-dollar loans—they only eliminate legal, regulated sources of credit. Consumers unable to obtain credit from traditional lenders are left with few options beyond overdraft fees, pawnshops, or unregulated lenders, all of which can be far costlier than the products rate caps seek to eliminate.

In states like Illinois, where similar legislation has been enacted, the data confirm this outcome. Consumers report increased difficulty in managing financial emergencies, and many have been pushed into higher-cost alternatives that ultimately worsen their financial standing.

Although Senate Bill 39 aims to protect consumers, it risks replicating these negative consequences in Alaska. The bill does not account for the diverse credit needs of Alaskan residents, particularly those in rural or underserved areas where traditional banking services are scarce. Instead of a one-size-fits-all rate cap, I urge the Committee to explore more flexible regulatory frameworks that both safeguard consumers from predatory practices and preserve their access to essential credit.

As an advocate for financial inclusion, I strongly recommend that the Committee reconsider SB 39 in light of these findings. Protecting consumer access to responsible, regulated lending options is critical to the financial well-being of Alaskan families and communities.

Thank you for your time and consideration. I welcome the opportunity to discuss these findings further and provide additional research to support consumer-focused policy solutions.

Sincerely,

Patrick M. Brenner
President, Southwest Public Policy Institute

[Attachments: Research Reports "No Loan For You!" and "No Loan For You, Too!"]

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Southwest Public Policy Institute

NO. 2 | FEBRUARY 2023
CENTER FOR FINANCIAL RESPONSIBILITY

No Loan for You!

Why the War on Specialized Emergency Loans Hurts New Mexico

D. Dowd Muska & Patrick M. Brenner

Half of the harm that is done in this world
Is due to people who want to feel important.
They don't mean to do harm – but the harm does not interest them.
Or they do not see it, or they justify it
Because they are absorbed in the endless struggle
To think well of themselves.

– T. S. Eliot, *The Cocktail Party* (1949)

This paper, in its entirety, can be found at **https://southwestpolicy.com/sppi02**

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Southwest Public Policy Institute | *Better living through better policy*

SOUTHWEST PUBLIC POLICY INSTITUTE

The Southwest Public Policy Institute (SPPI) is a research institute built to explore and build on sound, data-driven policies regarding education, crime, and economics that will encourage positive change in the American Southwest.

Many think tanks have fallen victim to the mentality of communicating only to the echo chamber: they only target individuals that agree with partisan messaging. SPPI's approach enables us to reach new audiences by micro-targeting constituents on issues like finance, energy, education, or public safety.

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The division in America comes from the unwillingness to communicate with one another and to discuss the problems and the issues in front of us. By working together, exchanging ideas, and bringing solutions to problems we face, we can accomplish what public servants are meant to do: deliver ***better living through better policy***.

INTRODUCTION

Imagine you are a married father of three. You own a home and make your mortgage payments on time. Your work history is solid, your credit scores are stellar (over 800), and you have no criminal record. By every measure, you are a well-qualified prospective borrower.

The scenario is not a fantasy for one of us (Patrick M. Brenner), who recently attempted to obtain a short-term, small-dollar loan from three national banks in the Albuquerque, New Mexico metropolitan area. His experience exposed an unpleasant reality that should disturb all who care about the customers and providers of financial services in the Land of Enchantment.

Last month, The Pew Charitable Trusts claimed that "five years ago, no large banks offered small installment loans or lines of credit to checking account customers with low or no credit scores." But today, "six of the eight largest banks, measured by their number of branches, do."[1]

After reading about "the new availability of bank small-dollar loans," Patrick was curious. Of the financial institutions Pew listed, three have branches in New Mexico: U.S. Bank, Wells Fargo, Bank of America. Over the course of a week, Patrick applied for a small-dollar loan at each of the financial institutions. His experiences were far from "consumer-friendly."

For U.S. Bank, the process started easily enough: Patrick strolled into the lobby of a local branch and asked about a "Simple Loan." The tellers didn't understand his query and requested a manager, despite Patrick using U.S. Bank's own name for the product.

"We don't offer these loans in branch," said the manager. "You'll need to apply online."

"But I don't have an account with online banking access," stated Patrick.

"Then you'll need to open a checking account."

Patrick did as told – supplying a $25 minimum to open a checking account, and agreeing to fees of about $5 per month. (An ATM was needed to withdraw the requisite cash.)

Patrick returned with the cash, and once the checking account was established – after a relatively simple application – online banking was set up. From there, applying for the loan was smooth.

Patrick leaves U.S. Bank without a specialized emergency loan.

The entire process, from entering the lobby until receiving the rejection notice, took about three hours, including transit time. Unfortunately, the application was denied.

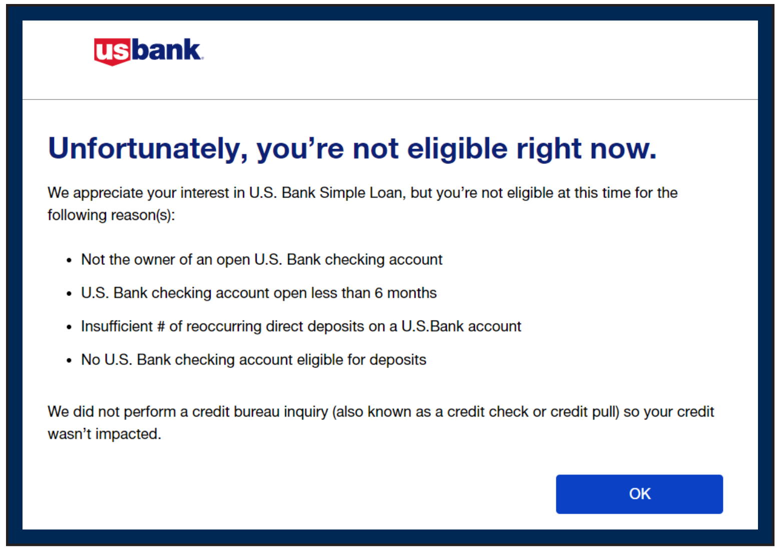
The same procedure took place at Bank of America. Denial, again, was the result – after the same amount of time was wasted and the same amount of cash was lost. Now Patrick was down $50, and still didn't have access to the small loan he "needed."

Patrick needed a checking account to borrow from Wells Fargo, too. But after his first visit to a local branch, it was determined that an appointment was necessary. The earliest opportunity was 10:00 am the following morning.

Patrick arrived promptly at 9:55, but 10:00 am came and went, as other walk-in customers took up positions with the available bankers. Patrick was not seen until about 10:15 am. After a similarly lengthy process, Patrick finally left the branch with his new checking account, short by another $25. From there, the online application for the loan was rejected, again. Wells Fargo took over four hours of time, including transit to and from the branch, twice, as well as the delays in meeting the appointment time by the branch employees.

After visiting these three branches, it became clear: the lauded "consumer-friendly small-dollar loan products" offered by the big banks were anything but consumer-friendly. In the end, no small-dollar loan was offered.

To reiterate, Patrick is solidly middle class, with an excellent financial history and not so much as an outstanding parking ticket. He and his wife have access to revolving credit from numerous institutions, and their accounts are all in good standing.



Patrick was deemed ineligible for a U.S. Bank "Simple Loan".

So why was Patrick denied access to a small-dollar loan – *three times*?

'PAYDAY LOANS': JUST THE FACTS

The Federal Deposit Insurance Corporation defines the "unbanked" as those who "do not have an account at a federally insured depository institution," and the "underbanked" are those who "have an account and also use nonbank products or services that are disproportionately used by unbanked households to meet their transaction and credit needs."[2]

There are several reasons why Americans are unbanked/underbanked. For some, the expense of "maintaining a bank account, including meeting minimum balance requirements and paying fees for overdrafts and other services," is too burdensome. Others have a "lack of trust in banks," and some have a passionate "desire for privacy."[3]

In Albuquerque, New Mexico's largest city, "a third of the households … do little or no mainstream banking, substantially higher than the national average."[4]

Fortunately, alternative financial services (AFS) exist to meet the needs of the unbanked/underbanked. Options include "[c]heck-cashing outlets, money transmitters, car title lenders … pawnshops, and rent-to-own stores."[5] The AFS marketplace includes what critics deride as "payday loans." Whatever one calls them, they

> *provide fast cash to cover emergency situations or help pay a borrower's expenses from one paycheck to the next. These unsecured loans have a short repayment period . . . . A balloon payment – full amount of the loan plus fees – is generally due on the borrower's next payday after the loan is made.*
>
> *The loans are generally for $500 or less and come due within two to four weeks after receiving the loan. Loan lengths vary based on the borrower's pay schedule or how often income is received – so the length could be for one week, two weeks, or one month.*[6]

Borrowers "tend to be relatively young and earn less than $40,000; they tend to not have a four-year college degree; and while the most common borrower is a white female, the rate of borrowing is highest among minorities."[7] As the Competitive Enterprise Institute noted, for the unbanked/underbanked, "a car breaking down or the need for emergency travel" can impose an obstacle that would not concern most middle- and upper-income households. And for people at the lower end of the socioeconomic scale "who could pay back [a small-dollar] loan in a few months, or even a few weeks," the "options are limited":

> *A bank typically won't process a consumer loan of a few hundred dollars. Sometimes folks in a pinch can borrow money from relatives, but even when they can, for many this is a blow to their pride.*
>
> *These individuals can also be late in paying their bills and credit card debt, bounce a check, or overdraw on their debit card. But these options not only result in lowering their credit scores, which affect their ability to better their lives through a new job or starting a business, they are often more costly than a payday loan would be.*[8]

It's little wonder, then, that from close to zero just three decades ago, millions of Americans now conduct business with the short-term, small-dollar credit industry every year. And these types of loans are increasingly moving online. Clarity Services, the "leading credit reporting agency for near-prime and nonprime consumers," found that between 2016 and 2019, the volume of "online single pay loans" more than doubled.[9]

MISSING THE POINT – AND THE PURPOSE

In 1998, the Consumer Federation of America contended that "[payday] loans sanction the writing of bad checks and entice consumers into relying on very expensive debt to live beyond their means."[10] It was one of the earliest attacks on an industry that deep-pocketed activists and media-savvy politicians on both the left and right label "predatory."

In 2010, President Obama touted the federal government's new Consumer Finance Protection Bureau (CFPB) as having "the potential to save consumers billions of dollars over the next 20 to 30 years," via "simple stuff," including "making sure that payday loans aren't preying on poor people in ways that these folks don't understand."[11] In 2019, the cable-news commentator Tucker Carlson thundered: "Why is it defensible to loan people money they can't possibly repay? Or charge them interest that impoverishes them? Payday loan outlets in poor neighborhoods collect 400 percent annual interest."[12]

When exploring the reality of short-term, small-dollar credit, Carlson's accusation is the best place to begin. The industry's enemies monotonously maintain that it imposes excessively high "interest rates" on borrowers. But as a Cato Institute scholar observed, calculating an annual percentage rate (APR) for the type of loans Carlson denounced requires "a little bit of hocus-pocus."[13] Customers typically pay a flat fee for borrowing, and by their very nature, the loans are of very limited length:

> *[F]ew, if any, borrowers take a whole year to pay off their payday loans. Data suggest most borrowers pay back the initial amount borrowed within six weeks, so it is highly unlikely that most borrowers would end up paying anywhere near the purported APR of the loan.*[14]

Economist Thomas Sowell exposed the fallaciousness of the APR artifice with two helpful analogies:

> *Using this kind of reasoning – or lack of reasoning – you could quote the price of salmon as $15,000 a ton or say a hotel room rents for $36,000 a year, when no consumer buys a ton of salmon and few people stay in a hotel room all year. It is clever propaganda.*[15]

As for Obama's insinuation that borrowers are too stupid to know what they're doing, *payday loans enjoy widespread support among their users. Surveys have found that 95 percent of borrowers say they value having the option to take out a payday loan. The same proportion also believe that payday loans provide a safety net during unexpected financial trouble. A 2009 comprehensive economic analysis of consumer demand for payday loans by George Washington University Economics Professor Gregory Elliehausen … found that 88 percent of respondents were satisfied with their last transaction. Less than 2 percent of the consumer complaints filed with the CFPB are related to payday loans, with the vast majority related to already illegal collection practices.*

…

Small-dollar lenders are often more competitive on price and accessibility than traditional banks. Some customers prefer payday lenders because they are more transparent and provide better service. Rather than being hit with an unexpected overdraft fee, customers appreciate the transparency of a flat, predictable fee. Storefront payday lenders also foster personal relationships between the teller and the customer. Professor Lisa Servon … worked as a check casher and small-dollar loan teller. She found that many customers felt they got better service than at banks. According to Servon, not a single person she served complained about being charged too much or about quality of the products, or got into an argument with their teller. She and her colleagues were repeatedly tipped by their customers who appreciated the service.[16]

Finally, while opponents of short-term, small-dollar credit assert that the industry operates in a "Wild West" environment bereft of government scrutiny, that is not the case:

Payday lending is highly regulated at the state level – including through usury limits, maximum loan amounts, and proscribed collection practices – and is subject to existing federal laws covering consumer credit generally, such as the Truth in Lending Act, Equal Credit Opportunity Act, Electronic Funds Transfer Act, and the Gramm-Leach-Bliley Act.[17]

'HELPING' BY HURTING

Despite their vacuous claims, crusades against "payday loans" have proven successful in several states. A 36 percent "APR" cap, enacted via legislation on ballot initiative, is often the goal. Such a mandate was adopted by South Dakota in 2016, Colorado in 2018, California in 2019, and Nebraska in 2020.

Ironically, as the "consumer protection" has intensified, research undercutting its justifications has grown. In 2016, an investigation published by The Journal of Law and Economics concluded that "consumers switch to other forms of high-interest credit when payday loans become unavailable."[18] The following year, a professor at the University of Idaho found that Ohio's "attempt to eliminate hardships caused by payday loan usage through prohibition ... may have inadvertently shifted the problem from one industry to another" – i.e., with "payday loans" curtailed, "consumers will seek alternatives and substitute across other financial service products, such as pawnbrokers, over-draft fees, and direct deposit advances."[19]

Clearly, "banning or limiting payday lending doesn't alter the underlying reasons why people seek out such loans. Restricting payday loans pushes users to other options, which have tradeoffs of their own."[20]

A few months ago, a study of Illinois's cap on the "interest rate" for specialized emergency credit discovered that the restriction "decreased the number of loans to subprime borrowers by 44 percent and increased the average loan size to subprime borrowers by 40 percent." Furthermore, "an online survey of short-term, small-dollar borrowers in Illinois" found that "only 11 percent of the respondents answered that their financial well-being increased following the interest-rate cap, and 79 percent answered that they wanted the option to return to their previous lender."[21]

Last month, data released by Colorado's attorney general "confirmed previous studies' findings that interest rate caps reduce access to credit for consumers who need it," with "small dollar loans … less available for nonprime consumers in Colorado than in Utah or Missouri, states with fewer restrictions on small dollar lending."[22]

At the federal level, it is worth noting the impact of 2006's Military Lending Act (MLA), which

> *imposed a 36 percent interest rate cap on consumer credit for active-duty service members and their dependents.*
>
> *Research … shows that the legislation has offered no benefit to members of the military and their families, and may even have caused some harm. In 2017, researchers at the U.S. Military Academy at West Point found that payday lending has had no adverse effects on members of the military and that the MLA was unnecessary. Further, since the MLA was enacted,*

the number of financial services companies operating near military bases and serving military families has dropped. This has contributed to the high number of military personnel suffering from financial distress, which more than doubled between 2014 and 2019.[23]

NEW MEXICO SUCCUMBS

The Land of Enchantment suffers from the fourth-lowest median household income in the nation.[24] It "has long had some of the highest rates of alcohol and drug abuse."[25] The share of all state births to unwed mothers is third-worst.[26] And the portion of its young-adult population that has dropped out of high school is the largest in America.[27]

Given its profound socioeconomic pathologies – and "progressive" politics – New Mexico is fertile ground for the war on specialized emergency lenders. In 2005, then-Governor Bill Richardson, making vague assertions about "just a lot of abuses and problems in the state," proposed "a reasonable cap."[28] But the industry's defenders managed to forestall additional regulations for many years, despite a withering onslaught of criticism from city councils, county commissions, religious organizations, liberal lobbyists, taxpayer-financed academics, and a highly sympathetic (and at times, wildly biased) news media. (Dissenting voices were all but nonexistent, although in 2015, the *Clovis News Journal*'s editorial page gamely declared that it is "simply not government's place to interfere with the free market."[29])

In 2017, legislation was passed barring any "lender, other than a federally insured depository institution" from making a loan "that has an annual percentage rate … greater than 175%."[30] Then-Governor Susana Martinez signed the bill into law.

But 175 percent is not 36 percent, and the specialized emergency lending industry was far from safe. In 2020, efforts to tighten the cap strengthened, when a leftist "results-oriented think tank" launched its "End Predatory Lending" initiative. Two years later, Think New Mexico "successfully advocated for the passage of House Bill 132 … to reduce the maximum annual interest rate on small loans from 175% to 36%."[31] Enthusiastically signed into law by current Governor Michelle Lujan Grisham – in 2021, she had made ending "predatory lending practices by limiting annual interest rates and increasing maximum loan size" a legislative priority[32] – the 40-page legislation became effective on January 1, 2023.[33]

As the new year approached, the *Santa Fe New Mexican* reported that the law was "already changing the face of the state's small-lending industry." The New Mexico Regulation and Licensing Department disclosed that "the number of active licenses for small-loan companies has dropped 7.5 percent in recent months, from 452 in June to 418 in November, and employees in the industry say numerous lenders have closed up shop."[34] Three weeks later, the *Albuquerque Journal* reported that the "'buy now, pay later' service Afterpay" would "no longer be doing business in the state," because of what the company called "regulatory changes."[35]

As the options for AFS dwindle in the Land of Enchantment, are other players in the financial-services industry stepping up? The Pew Charitable Trusts – based in Philadelphia – boasts about the growing availability of "safer and more affordable" options "for customers who previously would turn to high-cost payday loans or other alternative financial services, such as auto-title loans and rent-to-own agreements."[36] Santa Fe New Mexican columnist Milan Simonich – conducting no research of his own – makes the same gauzy assertion, writing that "banks are providing small loans to New Mexico customers at reasonable rates, all at a rapid clip."[37] Patrick certainly didn't find that to be the case with the three Albuquerque-area banks he tested.

CONCLUSION

Feel-good public policy often has the opposite effect of what its backers seek to accomplish. Even at this early stage of the 36 percent "APR" cap, the Law of Unintended Consequences appears to be at work in New Mexico. The "successful" campaign against "payday loans" has been a dubious blessing for the state's unbanked/underbanked. Rest assured, additional government interventions will be proposed to "solve" the problems created by well-intentioned but fundamentally ignorant activists and politicians.

Policymakers in the Land of Enchantment should replace virtue-signaling regulation with "rules of the road" that foster greater competition in financial services. Clear, consistently enforced standards can ensure that the lending market is open to all providers, while at the same time protect consumers. To truly aid the state's middle- and low-income households, the goal should be increased choice, not the inhibition of nontraditional credit options. Ideology and optics are no substitute for a healthy marketplace.

NOTES

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CENTER FOR FINANCIAL RESPONSIBILITY

No Loan For You, Too!

The Unintended Consequences of Price Controls on Consumer Access to Credit

D. Dowd Muska, Patrick M. Brenner,
Jack Radomski & Brandt Kringlie

In the end, we will remember not the words of our enemies, but the silence of our friends.

– Martin Luther King, Jr.

This paper, in its entirety, can be found at **https://southwestpolicy.com/sppi04**

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INTRODUCTION

The Southwest Public Policy Institute continues its ongoing probe of short-term, small-dollar lending. While the industry's products are regularly derided as "payday loans" and erroneously referred to as "predatory" by politicians, ideologues, and activists on both the left and the right, our research – building on the work of many others – offers a compelling counterweight to the one-sided narrative that dominates discussions. Herewith, we present the first update to the March 2023 policy investigation *No Loan For You!*[1]

As state and federal authorities grapple with usury and interest rate cap limitations due to advancements in financial technology, some states like New Mexico and Illinois are implementing solutions that exacerbate the issues they aim to address. We know that "well-intentioned interest rate caps can lead to less credit availability."[2] The "solution" is spreading, with South Carolina attempting passage of similar price control legislation this year.

Three months ago, the Institute exposed the challenges faced by unbanked and underbanked borrowers in New Mexico, where a significant "reform" of short-term, small-dollar lending became law on January 1, 2023. Our investigation cut a new path in the state, with a "secret shopper" experiment originally focused on banks. Now, we include credit unions. In addition, we extend our inquiry of traditional banks to a new state, far from the Land of Enchantment in more ways than one. We begin with our latest results, from Minnesota.

IT'S NOT JUST THE WEATHER

The project commenced in New Mexico, and we believe that one of the best ways to examine our findings there is to test our results in a very different state. So we picked Minnesota.

On the surface, the Land of Enchantment and the Gopher State have obvious differences, from temperature to international borders to time zones. But the greatest distinctions are found when one scrutinizes socioeconomic factors.

For the 2019-20 school year, the portion of "public school 9th-graders who graduate within 4 years of starting 9th grade with a regular diploma or, for students with the most significant cognitive disabilities, a state-defined alternate high school diploma" in New Mexico is 77 percent – tied with Arizona for the worst mark in the nation. Minnesota's share was 84 percent.[3] New Mexico's violent-crime rate is three and a half times worse than Minnesota's.[4] There is not a dramatic disparity in the cost of living, median household income in the Gopher State is an impressive 43.8 percent higher.[5] At 56.8 percent in April, New Mexico has one of the lowest labor force participation rates in America. Minnesota, at 68.1 percent, had one of the highest.[6] The supplemental poverty rate – a figure that "extends the official poverty measure by taking account of many of the government programs designed to assist low-income families and individuals that are not included in the official poverty measure" – is 10.6 percent in New Mexico; in Minnesota, it is 5.1 percent.[7]

According to the U.S. Census Bureau, the share of the New Mexico population that is "Hispanic or Latino" is 50.1 percent, vs. 5.8 for Minnesota. The "American Indian and Alaska Native alone" cohort is 11.2 percent in New Mexico; in Minnesota, 1.4 percent. At 2.7%, the share of New Mexicans who are "Black or African American alone" is well under half the comparable figure for Minnesotans at 7.4%.[8] Clearly, the states are about as different as they possibly could be.

Differences aside, states across the country are facing down an oncoming gale.

YOU DON'T KNOW JACK (OR BRANDT)

Jack Radomski and Brandt Kringlie are undergraduates at the University of Minnesota. Like many college students, "well-qualified borrower" describes neither young man. Often burdened with education debt, limited work experience, low incomes from part-time jobs and/or student aid, and a lack of well-established credit history, young adults pursuing higher education are not desirable customers for most lenders.

But it's easy to envision scenarios in which Jack, Brandt, and their fellow students face financial crises – urgent automobile repairs, for example, or the need for unplanned travel due to an illness in the family. When bad luck strikes, what are their options?

For the Institute, Jack and Brandt attempted to secure short-term, small-dollar loans from various banks in the Minneapolis-Saint Paul metropolitan area. Both students visited four major lenders: U.S. Bank, Wells Fargo, Bank of America, and Huntington Bank. Both encountered difficulties and were ultimately unable to obtain the loans advertised by all four banks.

Jack's experience began at U.S. Bank, where he successfully opened a checking account but was deemed ineligible for a short-term, small-dollar loan due to his new-account status. At Wells Fargo, he faced challenges finding the Flex Loan option both on the website and app, leading to his inability to apply for it. Bank of America's Balance Assist loan also eluded Jack, as he was informed he would receive an email with further details, but no immediate approval was granted. Finally, at Huntington Bank, he discovered that he was not eligible for the Standby Cash program based on the absence of the option in his account's "Hub" section.

Similarly, Brandt's efforts were unsuccessful. At U.S. Bank, he encountered the most helpful assistance – but was ultimately denied a Simple Loan due to specific qualifications, such as the required length of account ownership and a sufficient number of direct deposits. Wells Fargo's Flex Loan remained elusive to Brandt as he couldn't find the loan option on the website and concluded that he did not meet the eligibility criteria.

Huntington Bank's Standby Cash Program was also unattainable for Brandt, as he couldn't locate the application option on his account and the bank's help tool proved unhelpful. Lastly, Bank of America's Balance Assist loan required a checking account duration of over a year, making Brandt ineligible despite successfully opening an account.

Both Jack and Brandt found jarring inconsistencies between the banks' advertisements and the actual requirements for accessing emergency loans. Their experiences mirrored that of Patrick Brenner, who failed to secure approval of a short-term, small-dollar loan at U.S. Bank, Wells Fargo, and Bank of America in the Albuquerque metro area.

Meanwhile, Patrick is still incurring monthly checking account maintenance fees from Bank of America, U.S. Bank, and Wells Fargo as he waits to establish a 12-month checking account history with those banks as the prerequisite for their emergency credit products. Those twelve months will result in incurred fees of $83.40 from U.S. Bank, $59.40 from Bank of America, and $129.12 from Wells Fargo. None of these fees will be included in the total cost of the sub-36% short-term loan, an unfair advantage leveraged by the banks to include margin-padding fees in ancillary products.

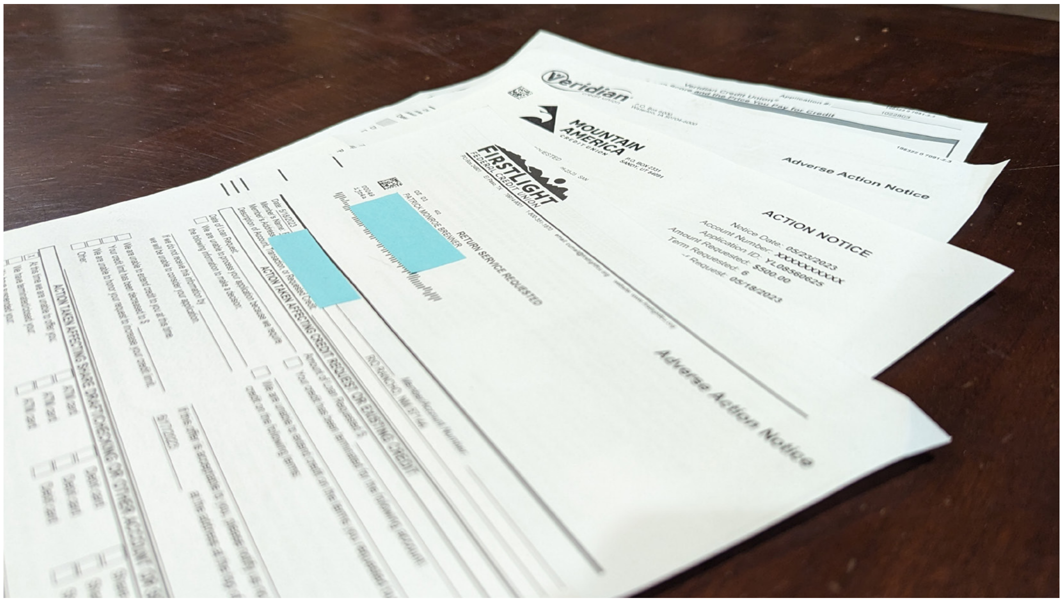
But unlike Jack and Brandt, Patrick is a married father of three with a mortgage, a full-time job, and a lengthy credit history. Thwarted by three major banks, he moved on to over a dozen local credit unions.

MEMBERS ONLY

According to the National Credit Union Administration, a payday alternative loan (PAL) "is a free-market solution that responds to the need for small-dollar lending in the marketplace." PALs, the government bureaucracy claims, "can make a difference by helping borrowers build or repair credit records, allowing them to graduate to other mainstream financial products," encouraging "responsible lending that allows consumers to address immediate needs while working towards fuller financial inclusion."[9]

Over the course of three weeks, Patrick applied for a PAL from Guadalupe Credit Union, Otero Federal Credit Union, U-1st Community Federal Credit Union, Four Corners Credit Union, Everyone's Federal Credit Union, Internationalites Federal Credit Union, FirstLight Federal Credit Union, American Southwest Credit Union, Mountain America Credit Union, Del Norte Credit Union, Veridian Credit Union, U.S. Eagle Federal Credit Union, and Nusenda Credit Union. He's also an existing member of Navy Federal Credit Union and Pentagon Federal Credit Union, where membership is restricted to military personnel and their families.

Finding credit unions that offered PALs was burdensome. The results were disappointing. Patrick was successful only twice. U.S. Eagle Credit Union granted conditional approval pending established membership. Patrick was already a member at the other, Nusenda, with an auto loan in good standing for about 12



Patrick's adverse action notices from the credit unions pile up.

months at the time of his application.

Thirteen of the 15 credit unions – 86 percent – denied Patrick's loan application, do not offer a PAL, or denied his membership application. For Del Norte Credit Union, the denial occurred in a branch. When prompted for access to the PAL criteria, the banker was informed by a manager that the document was for "internal use only" but required existing membership for a considerable length of time and a corresponding checking account. Veridian Credit Union supplied an adverse action notice, citing "credit application incomplete" as the principal reason for denial. But the online application form for Veridian did not allow submission unless requisite form fields were completed, making the "credit application incomplete" result something of a mystery.

First Light Federal Credit Union sent an adverse action notice, citing "you are not eligible for membership in this credit union" as the principal reason for credit denial. Mountain America Credit Union's Adverse Action Notice spelled out a similar reason for denial: "credit application incomplete", and we surmise that the reason the applications are marked as incomplete is that Patrick was not an existing member of the credit union at the time the application was submitted. But it's anyone's guess.

American Southwest Credit Union (ASCU) only recognized that the application was transmitted: "Thank you for your application. A loan officer will need to review your application and contact you with any questions." That was the last correspondence Patrick received from ASCU, which was the same day he applied: May 18, 2023. Guadalupe Credit Union (GCU) responded similarly: "One of our loan officers will be in contact once your application has been reviewed." GCU was never heard from again.

Internationalites Federal Credit Union used membership criteria to exclude Patrick from loan options. "[M]embership is not open to the general public. Membership is only open to employees of the City of Carlsbad, Mosaic Potash Carlsbad Inc., Intrepid Potash and family members listed below." Everyone's Credit Union featured a less-than-stellar consumer experience: "You have followed an outdated link. Please return to https://www.everyonesfcu.com/ for home banking access."

The only bright, shining example was Nusenda. The application process was simple, transparent, and accessible. The rate was 17%. Repayment would occur in three payments over 90 days. Upon agreeing to the note and submitting the application, the loan funds were immediately available in Patrick's Nusenda savings account. It was a streamlined and hassle-free process.

But Nusenda was the exception to the rule.

And Patrick is also the exception to the rule: he's not unbanked or underbanked and was already a member at Nusenda for over a year, the only credit union where he definitively obtained a specialized emergency loan.

At the outset, he was by all measures both a well-qualified borrower and a customer of traditional banking. Yet he stands in stark contrast to the general population: in New Mexico's largest city, "**a third of the households** … do little or no mainstream banking, substantially higher than the national average."[10] So what if "six of the eight largest banks now offer affordable small loans"?[11] One of every three families in Albuquerque doesn't use any bank at all.

So when Pew Charitable Trusts says "All payday loan borrowers are already bank or credit union customers with checking accounts," it's clear that they have rejected reality and substituted their own. But Pew also asked a great question: "What would consumers do if payday loans went away?"[12] Their answer was dismally disappointing: "Choose other options such as asking friends".

Who are the actual borrowers? This is one of the most important questions of which to be cognizant when considering consumer access to specialized emergency credit. Policymakers are forgetting this.

THE PERFECT STORM

Americans currently hold over $1 trillion in credit card debt, with the average interest rate on new cards reaching 24 percent, the highest since the Reagan era. The typical American household carries around $10,000 in credit card debt. Paying off this debt is challenging, with a monthly payment of $250 and 24 percent interest, taking until 2030 to repay and costing a total of $20,318, assuming the card is not used again. The nation's credit card debt has increased by $250 billion in two years, reaching $986 billion according to the Federal Reserve, although some estimates put it at $1.2 trillion.[13]

The pandemic initially led to a decrease in credit card balances, but spending has since increased, and the Federal Reserve has raised interest rates. Simultaneously, Americans have been depleting the savings that they accumulated during the pandemic as high prices and the end of relief programs have taken a toll on their finances. According to estimates from Goldman Sachs, Americans have already spent about 35% of the extra savings they acquired during the pandemic, and it is projected that by the end of the year, approximately 65% of that money will be exhausted.

In 2020 and 2021, government stimulus and reduced spending allowed households to accumulate $2.7 trillion in extra savings, but the reversal of these factors, along with soaring inflation, has led to the depletion of savings for many households. As a result, people are cutting back on spending and relying on credit cards, while also tapping into their savings to stay afloat. Economists expect that the saving rate will rise modestly by the end of the year but emphasize the circumstances that caused the depletion of savings are unlikely to repeat. Lower-income households have been hit hardest, with their savings being depleted at a faster rate than higher-income households.[14]

SHATTERING THE SPIN

The Pew Charitable Trusts, the Center for Responsible Lending (CRL), the National Community Reinvestment Coalition (NCRC), and the National Consumer Law Center (NCLC) have all presented a narrative that misrepresents the nature and impact of alternative financial institutions. These organizations seem intent on gaslighting specialized emergency lenders and distorting the reality of consumer lending options. It is important to address these misconceptions and exemplify the crucial role that alternative lenders play in meeting the credit needs of individuals facing financial challenges.

When all else fails, manipulate the data. And that's exactly what they're doing.

Pew's assertion that credit unions are providing small-dollar loans to more consumers than ever before is either based on a fundamental misunderstanding of the data or a compromising desire for it to be successful. Loan volume increased, but the number of loans issued by credit unions actually decreased by 7.3% in 2022 compared to 2019. The increase in loan volume was due to the average loan amount rising from $700 to $1,000.[15] Admittedly, this would allow credit unions to generate more revenue on the loan. The real question is, are credit unions *actually* fulfilling their missions as claimed in the Pew narrative?

While many credit unions have offered low-cost, small-dollar loans in the past, members often chose other options due to the inconvenience, like in Patrick's experience, of in-person applications and uncertainty about eligibility and loan timing. Despite the increase in small-dollar lending by credit unions and the record volume achieved, only a limited number of credit unions currently offer automated small installment loans or lines of credit.

In "pursuit of their mission", twelve credit unions have been piling on the adverse action notices, and it has taken its toll on Patrick's credit. Before undertaking this investigation, Patrick's credit score was over 800. As of June 9, it's 706. While the banks used alternative approval criteria for their short-term loan applications, the credit unions all subjected Patrick to hard credit inquiries, an effect that will last two years.

The very people intended to be beneficiaries of the "protection" of interest rate caps have been left without access to credit previously relied on. These consumers are well-informed and often prefer the specialized financial products offered by alternative lenders. Rather than conveying the bigotry of low expectations, these consumers should be trusted with their own decisions.

CONCLUSION

A consumer credit crisis is looming: inflation is up, there are no more loans, there are no more savings. With an uncertain economic future, access to both specialized emergency credit and liquidity, in general, is more important now than ever before. Rather than inhibiting access to nontraditional credit options that activists simply don’t understand, the primary objective should be to expand choices for middle- and low-income families.

Patrick, Brandt, and Jack have been met with frustration as they challenged themselves to capture a specialized emergency loan offered by ill-suited traditional financial institutions so often touted by anti-“predatory” credit alarmists. While P., B., and J. don’t actually need the loans, millions of other consumers do. Instead of borrowers being met with the product they know and want, the cancerous spread of rate caps and price controls has led to the only possible outcome: no loan for you, and no loan for you, too.

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