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Thank you, chairman and members of the subcommittee for the opportunity to provide this written testimony in connection with the hearing entitled *Are Alternative Financial Products Serving Consumers?"* Below I provide my background, describe some of my research on high-cost credit, describe the different forms of high-cost credit, briefly describe a few of the regulatory options, and then discuss alternatives that might fill the void if these loans were less available.

I. Background

My Credentials and Research

I am the Frederick M. Hart Chair in Consumer and Clinical Law University of New Mexico School of Law. This endowed chair is thought to be the only one in the U.S dedicated to consumer law issues. Although I write in other areas as well, the primary focus of my research is high-cost loan products (which include *payday loans*, *title loans*, and triple and quadruple-digit interest rate *installment loans*), and public attitudes about these forms of credit.

My research on high-cost lending includes the articles listed below, which can be found at http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=1313797.

Interest Rate Caps, State Legislation, and Public Opinion: Does the law Reflect the Public's Desires? 89 CHICAGO KENT L. REV. 1 (2013) (with Timothy Goldsmith)

High-Interest Loans and Class: Do Payday and Title Loans Really Serve the Middle Classes, 24 LOYOLA CONSUMER L. REV. 524 (2012) (with Ernesto Longa).

The Alliance Between Payday Lenders and Tribes: Are Both Tribal Sovereignty and Consumer Protection at Risk?, 69 WASH & LEE L. REV.751 (2012)(with Joshua Schwartz).

Grand Theft Auto Loans: Repossession and Demographic Realities in Title Lending, 77 MISSOURI LAW REV. 41(2012) (with Ozymandias Adams).

Regulating Payday Loans: Why This Should Make the CFPB'S Short List, 2 HARV. BUS. L. REV. ONLINE 44 (2011), available at: http://www.hblr.org/?p=1595.

1,000% Interest—Good While Supplies Last: A Study of Payday Loan Practices and Solutions, 52 ARIZONA LAW REVIEW 563 (2010).

Double Down-and-Out: The Connection Between Payday Loans and Bankruptcy, 39 SOUTHWESTERN L. REV. 789 (2010) (with Koo Im Tong).

My Research Progression and Empirical Findings

I have done five empirical studies related to high-cost lending and attitudes toward high-cost lending.

First Study in 2009

I devised my first study, *1,000% Interest—Good While Supplies Last: A Study of Payday Loan Practices and Solutions,* after meeting clients in our clinical law program that had taken out some form of these loans. Before meeting these clients, I had no idea what the terms of these loans actually were. Once I saw the 1,000% interest rates, I had to learn more. As a person who believes markets can serve people and respond to competition and consumer complaints, I wanted to find out why the rates never seemed to drop even when more lenders entered the market. I also wanted to find out what people were using the loans for and whether consumers shopped based upon the rates. Finally, I wanted to determine if consumers knew the loans were interest-only loans when they took them out. I went into the study with an open mind, just trying to learn the facts. In the study, published in the Arizona Law Review, I and my students interviewed 109 consumers outside payday lending stores. Key findings of this study include:

People do not Shop for Payday Loans on the Price so the Market Does Not Reduce Cost

People do not shop for price when obtaining a payday loan but instead take out loans near home or work out of convenience, or go to lenders that friends or family members have used. This means that the market forces that would usually reduce prices through competition do not work. Indeed, regardless of how many new lenders enter the market, prices only go up, never down.

Most Customers Do Not Understand the Loans Before They get Into Them

People have difficulty understanding the terms of the loans and are very surprised when they go in and make a payment of $80 on a $400 loan and the $80 payment does not reduce the principle on the loan at all. People also cannot calculate the annual percentage rate on the loan (for example, by multiplying the 14 day rate by 26 periods of 14 days within a year), and thus cannot easily compare the cost of this credit to other forms of credit.

Some people thought that a rate of $15 per $100 borrowed for 14 days (390% per annum) was *less* expensive than a credit card rate of 25% per annum. One woman was proud of herself for using these loans instead of student loans.

Customers' Use of the Loans

People do not use the loans for short term needs. Many people who use these are in continuous debt, often with more than one loan.

Many people reported having low cost or no cost options to taking out the loan, including doing without or asking a friend or family member. Getting the high-cost loan just seemed easier, until they saw how hard it was to pay back.

People generally are not able to pay the loans back as quickly as they thought they would.

People use the loans primarily for regular monthly expenses, not emergencies, which means these consumers are worse off the following month than they were before they took out the loan. They now have another monthly bill to pay.

Subsequent Empirical Research

Before I began the first study, I had no idea how many loans consumers carried at a time. I assumed most people used just one loan at a time. Discovering the use of multiple loans at a time led to my next study, an empirical analysis of the debts of over 1,000 bankruptcy debtors to determine what percentage of the debtors used payday loans in a state with lax regulations, and of those, how many loans the borrowers had. I discovered that 19% of debtors in the study used the loans, nearly 70% of those with loans had more than one, 37% had more than 5 loans, and that an astounding 14% had more than 10 loans.[1]

In my next study, I analyzed state data on *title loans* and discovered, among other things that title lenders do not underwrite the loans for affordability and that the loans create a high risk of repossession.[2] I then did a demographic study of borrowers, again using bankruptcy data, and discovered that most payday loan borrowers are not middle class people as the industry suggests but that these borrowers typically have lower incomes than the median income in their state and also have lower home ownership rates than the average.[3] These results have been recreated in numerous studies, including *Do Payday Loans Really Serve the American Middle Class? An Empirical Analysis,"* in a recent issue of the Journal of Consumer Affairs.

II. Background of Topic: Terms of Various Types of High-Cost Loans

There are many varieties of high-cost loans, a few of which are described here as background.

Store-front Payday Loans

[1] *Double Down-and-Out: The Connection Between Payday Loans and Bankruptcy,* 39 SOUTHWESTERN L. REV. 789 (2010) (with Koo Im Tong).

[2] *Grand Theft Auto Loans: Repossession and Demographic Realities in Title Lending*, 77 MISSOURI LAW REV. 41(2012) (with Ozymandias Adams).

[3] *High-Interest Loans and Class: Do Payday and Title Loans Really Serve the Middle Classes, 24 LOYOLA CONSUMER L. REV. 524 (2012)* (with Ernesto Longa).

A true "payday" loan is called a payday loan because its original purpose was to help a customer survive a short-term cash flow crisis between the time of the loan and the customer's next payday. In one common form of payday loan, a consumer borrows money at a rate of between $15 and $25 per $100 for a period of fourteen days or less. In other words, if a consumer was paid four days ago but is already out of cash, she can go borrow, for example, $400 between now and her next payday (now ten days away). To get that $400 at the $15 per $100 rate she would need a checking account and would write a check, or authorize an automatic debit, for $460 post-dated to her next payday.

When payday comes, she can either let the check or debit clear, assuming the unlikely event that she now has this money, or she can go in and pay another $60 to borrow the same $400 for the next two weeks. When taken as an annual percentage rate, calculated by multiplying this rate by twenty-six two week periods over the course of a year, these terms result in an interest rate of 390% per annum or higher.

Typical state payday loan laws (in states that have them) limit interest and fees to $15 per $100 (390% or more) but only if the loan is 14-35 days in duration. These laws do not apply to longer loans.

Title Loans

Another type of high-cost loan is the auto title loan, for which consumers do not need bank accounts. Rather borrowers simply need an unencumbered automobile to secure the loan. These loans carry a typical interest rate of 25% per month or 300% per annum. While title loans typically carry lower interest rates than payday loans, they tend to be larger loans, increasing the chances that the loans will be difficult to repay and will create a debt trap. They also subject borrowers to the possibility of losing their vehicle, a risk not encountered with the other forms of high-cost loans.

Store-front Installment Loans

Yet another type of high-cost loan is the so called "installment loan." This is the new loan of choice for many lenders as these loans allow lenders to skirt state laws regulating loans made for fourteen to thirty-five days.

The phenomenon of morphing loans into another form in order to avoid state laws is discussed in more detail below, but in short, lenders make installment loans to avoid state payday loan laws, simply by making loans with durations longer than thirty-five days. Longer loans fall outside the regulations and thus remain unregulated. In one such installment loan, a customer borrowed $100, to be repaid in twenty-six bi-weekly installments of $40.16 each, plus a final installment of $55.34. In total, this borrower paid a total of $1,099.71 on a $100 loan. The annual percentage rate on the loan was 1,147%.

On-line Loans

A huge segment of the high-cost loan industry now lends on line, where lenders claim not to have to comply with state laws and where they are hard to locate and regulate. These lenders have a very poor record of compliance with any form of law, state or federal, and have been the subject of numerous lawsuits and large fines. While some cheaper loans are available, these loans often carry an interest rate of 800-1,000%

III. Solutions to the Problems Caused by High-Cost Loans

There are many ways to legislate high-cost credit, but most methods that have been tried have failed. One method that has not failed is simply capping interest rates. Other possible solutions may exist, but each has its problems. For example, a law could be passed that would require that lender underwrite their loans. Lenders would need to ensure that borrowers could afford to make their regular monthly expenses and also pay back the loan. Otherwise, the loan could not be made. If the loan was made anyway, it would not be enforceable.

Another middle ground would be forbidding rollovers or back to back loans from the same lender or different lenders, and limiting the number of loans a consumer could take out in a given time frame. This could be enforced through a national database in which all loans would need to be placed. A well written law would provide that if a loan did not appear in the database, it would not be enforceable and the lender could not take any action to collect it.

Lenders dislike these options, claiming that the latter violates consumer privacy rights and that the former, the underwriting, is too complex. I agree that these options are complex. I also fear that lenders would find ways around compliance, similar to the loopholes they have used in the past. Given these potential loopholes and also these complexities, a far simpler method of regulation would be passing a federal usury cap.

A. There is No Existing Federal Law on Interest Rate Caps for Loans to the General Public

There currently is no federal law regulating interest rates on consumer loans. Until twenty-five years ago, most U.S. states had usury laws that capped interests on consumer loans. In the U.S., usury laws have historically been the main protection consumers have had against harsh credit practices. Usury dates back to the earliest recorded civilizations and has a very prominent role in early American laws.

The Supreme Court's decision in *Marquette National Bank v. First Omaha Service Corp.*,[4] concluded that the bank's state interest rate applied when a bank lent to an out of state customer, and after this decision, states began eliminating their usury caps in order to attract financial institutions to their states, with South Dakota and Delaware leading the way. The decision effectively deregulated state interest rate caps. No federal law has filled this gap, nor have other solutions to high-cost lending been designed.

B. Only about a Third of States Effectively Regulate High-Cost Credit

Eighteen states plus the District of Columbia either forbid high-cost lending or cap interest rates at 36% or less. The rest of the states have either no regulation of consumer loans, have regulations that affirmatively allow the high-cost products described above, or have piecemeal laws that apply to one or more of the various types of loans. The resulting legislative patchwork has kept legislatures and

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4. Marquette Nat'l Bank v. First Omaha Serv. Corp., 439 U.S. 299 (1978).

consumer protections organizations busy around the clock, but has not resulted in any overall decrease in high-cost loans or in interest rates on such loans. To the contrary, the high-cost lending industry is growing exponentially, faster than any other part of the consumer credit sector and rates are going up, not down.

C. The Public Supports Interest Rate Caps on Consumer Loans, even the Very Conservative Public

In every study or survey in which the public has been asked to comment, the American public overwhelmingly supports government imposition of interest rate caps on consumer loans. A recent study I did with psychologist Tim Goldsmith proves this point. Our entire article is attached but other studies and survey all reach the same result.

First, a national survey by the Center for Responsible Lending shows that three out of four Americans who expressed an opinion think that Congress should cap interest rates, and 72% feel that the caps should be no higher than 36%.

State ballot initiatives glean the same results. For example, in Montana, 72% of the population supported a ballot initiative that ultimately resulted in a 36% cap on interest rates for all loans in Montana. Citizens of Kentucky also voted for a ballot initiative that ultimately capped all loans at 36%. Similarly, Arizonans overwhelmingly supported a ballot initiative that ended payday lending in the state. Additionally, in 2008, 68% of Ohioans supported a ballot initiative that purported to cap interest in the state at 28%.

Public opinion survey data show similar public proclivities in favor of interest rate caps. After hearing that payday and title lenders can charge 500% or more in Texas, 63% of Texans age forty-five or older strongly agreed that the state should cap interest rates and fees, with 77% of respondents reporting that the cap should be 36% or less. In another survey taken by the Texas Fair Lending Alliance, and the Texas Faith for Fair Lending, 85% of people polled favored capping interest rates on payday and auto title loans at 36% APR or less. In Iowa, survey data showed that seven in ten Iowans believe payday loan rates and fees should be capped. In Rhode Island, the only state in New England to allow store-front payday lending, a public opinion poll showed that 62% of Rhode Islanders supported capping interest on payday loans. Finally, a public poll of Coloradans showed that 74% of Coloradans support a similar 36% cap.

Additionally, support for caps crosses party lines. In the attached study by Professor Tim Goldsmith and I, we set out to measure not just overall support for interest rate caps but political affiliation of those who favor caps on consumer loans. Our data show widespread support for interest rate caps across political lines. We did find that more Democrats favor interest rate caps than Republicans, with 94% of Democrats favoring caps and 73% of Republicans favoring caps.

What is remarkable, however, is just how many conservative people favor caps. Our data show that over 57% of people who report being "*very* conservative" politically and over 82% of those who report being "conservative" politically favor interest rate caps over no interest rate caps.

While wondering aloud why the public is not more active in seeking out laws that cap interest, we stumbled upon a possible explanation. First, many people incorrectly think interest rates are capped (over 58% for credit cards and over 43% for short-term loans), when in reality these rates are not capped. In other words, people misunderstand and overestimate the protection the law currently provides. Second, even among those who know that the law provides *no* caps, most are unaware that lenders in the state in which the study was conducted currently charge interest rates of 200% or more. Indeed, we found that 81% of the public was unaware of the costs of these ubiquitous loans. These poll data support the notion that 300% to 1,000% loans are not normal or usual, and the public opposes them. Interestingly, people who had themselves used the loans were even more in favor of caps than non-users.

D. Loopholes: How Lenders get Around Every State Law That is Passed, except Caps

Despite wide and deep public support for rate caps, uniform state interest rate caps that apply to all consumer loan products are few and far between. Moreover, those caps that do exist are often ineffective due to state laws' inability to regulate certain lenders, namely on-line lenders located offshore or affiliated with Indian tribes.

In states where complex statutes are passed to limit high-interest lending, even store-front lenders find ways around those laws, by changing the attributes of the loans to avoid the laws, fitting within exceptions created by other laws on the books, or becoming credit service organizations ("CSOs"), which are exempt from the laws. This complex game of whack-a-mole makes regulating state by state an expensive yet ineffective endeavor.

1. *The "Loan Term" Loophole*

Loopholes happen. In the world of payday lending, they happen a lot. For example, payday lenders began appearing in New Mexico after the state repealed its General Usury statute (former NMSA 1978 §56-8-11-1) in 1991. For five very long and frustrating years, the New Mexico Legislature debated various payday lending statutes. Finally, during the legislative session of 2007, the Legislature adopted a law is similar to those of several other states. The regulation relies heavily on computer database enforcement mechanism for consumer qualification and reporting. Thirty-three states have laws that bear some similarity to this New Mexico law. None, however, curb high-cost lending abuses, despite legislative goals of curbing high-cost loan abuses.

The new law capped interest and fees at $15 per $100 for each period of 14 days or less, or 390% per annum or more. The new law also applied only to lenders engaged in the business of lending amounts of $2,500.00 or less, and defined a loan covered by the Act as one of fourteen to thirty-five days in duration, for which the consumer gives the lender a check or debit authorization for the amount of the loan plus interest and fees.

In the end, this narrow definition gutted the legislation. The industry quickly switched to loan products that fall outside the statute, namely longer loans or those not involving a post-dated check. This was done so that lenders could charge more than 390% per annum and avoid the database. Naturally, these loans that fall outside the definition are not regulated at all. Thus, many states have spent years

attempting to regulate payday lending, but the resulting state laws have done nothing to change short-term lending at high interest rates.

Professor Robert Mayer reports on a similar legislative process in Illinois:

> Regulators in Illinois imposed rules in 2001 that were designed to [curb the number of payday loans and roll-overs]. Customers were allowed to borrow no more than $400; only two renewals were permitted, with some of the principal paid down each time; and a cooling-off period was mandated to prevent borrowers from using the proceeds of a new loan to pay off the old one. The state . . . promised to establish a database to track loan activity and enforce the rules.[5]

As in New Mexico, Illinois payday lenders quickly devised a new product to evade the rules. The statute applied to cash advances with a term of less than thirty-one days, so the industry created a thirty-one-day loan not covered by the rules. As a result, all of the old abuses persisted.

A 2003 Illinois OFI report acknowledged that it remains "quite common for borrowers to have multiple payday loans outstanding with several different payday loan companies. Similar end runs occurred in Oklahoma. Additionally, other states such as Florida, Illinois, and Michigan have tried to impose interest-free payment plans like one passed in New Mexico, but these laws have produced no meaningful reduction in the number of trapped borrowers.

2. Using Exceptions Created by Other Laws to Get Around State High-Cost Loan Laws

Other forms of loopholes also abound. In 2008, the Ohio State Legislature voted to rescind a twelve-year-old law that exempted payday lenders from the state's usury laws, a vote Ohioans supported two to one. An existing short-term loan law purported to cap interest on all short-term loans at 28%, and also to give customers at least a month to pay off the loans. In response, lenders simply switched their licenses so they could offer payday loan look-alikes under two parallel lending statutes, the Small Loan Act or the Mortgage Lending Act. Making these changes was simple for lenders and they began offering even higher cost loans, as this industry web site explains:

> By adjusting the loan amount to just above $500, payday loan lenders double the loan origination fees from $15 to $30. The Small Loan and Mortgage Lending acts allow the fees on top of the 28 percent interest, something the new payday lending law doesn't permit. Under the new HB 545 licensing scheme with the check cashing fees added, customers pay the same $575 to walk out the door with $500 in cash. . .
>
> A First American payday loan customer indicated he previously paid $75 for a $500 loan, First American charged him a total of $90 to borrow the same amount after the law

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5. Robert Mayer, *One Payday, Many Payday Loans: Short-Term Lending Abuse in Milwaukee County* (working paper, 8), *available at* http://lwvmilwaukee.org/mayer21.pdf (last accessed Aug. 6, 2009).

> changed. More than one Ohio payday loan company has structured their check cashing and loan operations as two separate entities to justify the fees.[6]

Then Ohio Attorney General Rich Cordray said his office found payday loans with APR's ranging from 128 to 700 percent immediately after the ballot initiative that purported to cap interest on consumer loans in Ohio at 28%.

3. *Online Lending*

Internet payday lending is growing quickly and many on-line lenders claim to be immune from state laws. Even where states have won cases holding that on-line lenders must comply with state laws, lenders often fail to do so. State regulators have again garnered precious resources to enforce their laws, often to no avail. The most recent survey by the Consumer Federation of America ("CFA") notes that lenders continue to claim choice of law from lax jurisdictions, to locate off-shore, or to claim tribal sovereign immunity to avoid complying with state consumer protection laws.

The trial sovereign immunity loophole is particularly troubling, as it pits two traditionally disadvantaged groups, Native Americans and low-income consumers, against one another in a complex battle over who needs protection more. Under this model, lenders team up with Indian tribes to avoid state laws. Tribes engaged in off-reservation activities must comply with non-discriminatory state laws, as must anybody else. Despite this requirement, tribes are immune from suit because they are separate sovereigns. Thus, while they must obey state laws, they can't be sued to enforce the laws or compel their compliance. This motivates lenders to seek out tribal partners as this industry web site explains:

> Due to the strict regulations that are hitting the payday loan industry hard, many lenders are now turning to Indian Tribes to help them out. The American Indian Tribes throughout the United States have been granted sovereign immunity which means that they are not held subject to the laws that payday loans are currently going up against. There are 12 states which have banned payday lending but as long as their (sic) is an Indian tribe who runs the operation on this sovereign land, the lenders can continue their business even where payday loans have already been banned. Similar to the Casino boom, payday loans are the new financial strategy that many are using as a loophole through the strict payday loan laws. The revenue is quite high and promising for these tribes who often find

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6. As another industry web page explains:

> With news of the passage of Issue 5 in Ohio on Nov. 4, Check Into Cash began restructuring its loan product offerings throughout the Buckeye state to comply with the new law. On Nov. 5, the company ceased to offer payday loans and began offering a new product, micro loans, which are short-term loans from $50 to $600 and permitted under Ohio's Small Loan Act.
>
> These new micro loans are one way that Check Into Cash is striving to continue to serve its valued customers with the same level of service as it has in prior years. Even though this new Ohio legislation was designed to make it difficult to continue serving customers who desire payday advance services, Check Into Cash has pushed ahead, endeavoring to persevere with its ongoing commitment to customer service.

Check Into Cash Committed to Serving Ohio Customers, PRWEB (Nov. 18, 2008, 10:19 AM), http://www.prweb.com/releases/checkintocash/ohio/prweb1628414.htm), *quoted in* Martin, *supra* note 43, at 591 n. 151.

> themselves struggling. There are approximately 35 online cash advance and payday loan companies that are owned by American Indian tribes. … It is no surprise that many lending companies are currently seeking out American Indian Tribes in an effort to save their businesses by escaping US lending laws. Tribal leaders are paid a few thousand dollars a month for allowing a payday lender to incorporate on tribal land. The more lenders that tribes allow to move onto their reservation, the larger the profit that they make.[7]

Often, as this excerpt clearly articulates, the lenders using this model are not tribes. Proving that the lenders are not entitled to tribal sovereign immunity is not easy, however. A simple Federal interest rate cap would eliminate this loophole as even tribes are bound by federal law.

E. Colorado: A Middle Ground to Consider but Still 200%

Despite all of the failures of state high-cost lending laws to reduce interest rates or otherwise eradicate onerous loan terms, Colorado has passed a law that does lower those rates somewhat. This law is worth studying for its possible implications for future federal legislation.

Colorado's 2010 law has reduced the number of payday loans in the state as well as the interest rates on existing payday loans. The law sets a maximum loan amount at $500 and adds provisions designed to keep consumers from getting trapped in the usual payday loan roll-over cycle. Consumers also have the right to cancel a payday loan transaction by 5:00 p.m. the following day. Consumers may also choose to repay loans in one sum or pay the full amount over six months. The law also caps interest rates for these loans at 45%, but this rate limit does not include fees and other costs, which add significantly to the actual cost of the loans.

A recent study completed by the Pew Charitable Trust concludes that this new law has been effective in reducing rates on payday loans.[8] The dollar amounts of payday loans in Colorado have fallen almost 60%, and the number of loans fell from 1,110,224 loans in 2010 to 444,333 in 2011 after the law was implemented. Data from the Colorado Attorney General's office indicate that the new law appears to have dropped average effective APRs from 338.90% to 191.54%. In addition, quite significantly, the average number of payday loans consumers have taken out per year has fallen from 8.53 loans per person to 2.3 loans per person.

Nonetheless, the average contract finance charge has risen significantly, from $60 to $237 and many consumer protection groups are appalled that when fees and costs are included, the Colorado law allows interest rates of nearly 200%. There also has been an increase in "same-day-as-payoff" transactions, meaning the lender makes a new loan to a consumer on the same day the consumer pays their previous loan in full. This means lenders are easily getting around rollover limits.

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7. *The Connection Between Indian Tribes and Payday Lending*, ONLINE CASH ADVANCE, http://www.online-cash-advance.com/financial-news/the-connection-between-indian-tribes-and-payday-lending#ixzz1Nt1vQu6h (last accessed Jan. 11, 2012) (on file with the author).

8. Susan K. Urahn, Travis Plunkett, Nick Bourke, Alex Horowitz, Walter Lake, and Tara Roche, *Payday Lending in America: Policy Solutions, Report 3 in the Payday Lending in America series*, THE PEW CHARITABLE TRUSTS, October 2013, 12-13, http://www.pewstates.org/uploadedFiles/PCS_Assets/2013/Pew_Payday_Policy_Solutions_Oct_2013.pdf.

In summary, Colorado has been more vigilant than any other state in working on a solution to the payday lending problem. The law it passed, while better than most, still has problems.

Few states have the will or the resources to go to the efforts to which Colorado has, making a federal solution to the problem efficient and effective by comparison. Congress has regularly and effectively taken over areas of consumer and commercial law and should do so here as well. Nevertheless, Colorado's law should be studied by Congress before it acts.

F. Why a Federal Interest Rate Cap Would Work Best

A federal usury cap would curb high-cost lending once and for all. Coordinating fifty states on this or any issue is complex and difficult work. Congress on the other hand need pass just one law to accomplish a national usury cap. Consumers can and do cross borders to borrow money, and states have no particular interest in caps. Moreover, the entire country is a common market, such that any state's regulation of interest rates inherently reaches across borders. Thus, there is a need for uniformity on interest rates across those borders, which only Congress can provide.

Congress unquestionably has the power to set federal interest rate caps, through the Commerce Clause of the U.S. Constitution. Indeed, in recent years the regulation of consumer credit has become even more and more of a federal, rather than a state, regime.

G. The Military Lending Act as a Starting Point for Congress

Congress already has experience setting a 36% cap that protects some but not all Americans. In 2007, Congress passed the Military Lending Act (MLA),[9] which purported to place a 36% interest rate cap on consumer loans and to prohibit lenders from engaging in predatory practices toward active-duty military members and their dependent family members.

In passing the MLA, military lenders were deeply concerned about the effects of predatory lending on military readiness. When they realized state lawmakers were unable or unwilling to pass laws protecting the troops, these leaders focused their efforts on passing federal legislation. In 2006, the United States Department of Defense issued a report finding "that payday lending 'harms the morale of troops and their families, and adds to the cost of fielding an all-volunteer fighting force.'" Congress noted that lenders were blatantly targeting the military by clustering in large numbers "near military bases" and using "military-sounding names" and also that military personnel lacked sophistication in financial matters and were easily taken advantage of.

While there was early evidence that the MLA curbed predatory lending to military communities, more recent evidence suggests that even the MLA is mired by loopholes. However, Congress can learn from these loopholes and pass an effective 36% cap, modeled after effective state law caps. Finally, the federal government has the power to enforce a federal usury cap through the Consumer Financial Protection Bureau, whereas most states lack sufficient enforcement power.

9. 10 U.S.C. §987(b) & 32 C.F.R. §232.4(b).

H. Viable Options to Existing High Cost Loans

High-cost lenders insist that if regulation is passed to curb high-cost lending, consumers who need credit will be hurt. Fortunately, this is not the case. Low cost options are beginning to develop. In many states, Community Development Financial Institutions are being formed to meet this unmet need. Moreover, a recent U.S. Inspector General's report recommends that the U.S. Postal Service partner with banks to provide banking services to the unbanked and underbanked. Assuming the rates for these postal loans would be significantly lower than existing high-cost loans, this could be a viable solution to any unmet need created by stricter regulations.

IV. Conclusion

Based upon years of research and a great deal of contact with low-income consumers, I honestly believe people are better off without the option to take out unlimited numbers of high-cost loans. This is especially true when current law in most states allows lenders to charge 1, 000% per annum or more in interest and fees. These forms of credit cause far more harm than good. They are not safe, not affordable, and thus access to them is more of burden than a benefit.

These loans make cash flow problems worse. The two ways to eradicate cash constriction are to increase income or reduce costs. These loans increase costs and thus worsen the problem of limited income to meet expenses. If these loans cannot be made more affordable, the loans should not be made.

Moreover, as long as these forms of credit are around, alternatives for low and middle income people with poor credit will not be become available. Where the loans are legal, high-cost lenders are everywhere, outnumbering Starbucks, McDonald's, Burger Kings and Walgreen's combined. With no underwriting, they are easy (too easy) to access. As long as these lenders are in business under the terms described here, it will be difficult for states and the federal government to develop lower cost alternatives.

Thanks very much for reading and let me know if you'd like more information on any of these points.

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Interest Rate Caps, State Legislation, and Public Opinion: Does the Law Reflect the Public's Desires?

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II. Other Solutions for Fringe Economy Lending

INTEREST RATE CAPS, STATE LEGISLATION, AND PUBLIC OPINION: DOES THE LAW REFLECT THE PUBLIC'S DESIRES?

TIMOTHY E. GOLDSMITH* AND NATHALIE MARTIN**

Are consumers aware of the law on interest rate caps? Do consumers support interest rate caps in general or in the context of specific types of loans? Do consumers know that it is legal to charge 400% or more per annum for a loan in some states? If they do know that such rates are legal in some states, do they find these rates acceptable or problematic? We recently sought answers to these and related questions through a public opinion poll in the state of New Mexico, a poor, primarily Democratic state.[1] Because New Mexico has one of the highest consumer usage rates and highest concentrations of payday and title loan shops in the nation,[2] we thought it would be an ideal place to measure the public's knowledge of and interest in these ubiquitous loans.[3] We also measured knowledge of interest rate caps in the context of credit cards, as a point of comparison.

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1. *State and County Quick Facts*, UNITED STATES CENSUS BUREAU, http://quickfacts.census.gov/qfd/states/35000.html (last visited on September 13, 2013) (showing a poverty rate of 19% compared to a national average of 14.3%); David Weigel, *How the Democrats Won New Mexico: How did President Obama take New Mexico off the "swing state" map?,* SLATE.COM (Oct. 9, 2012), http://www.slate.com/articles/news_and_politics/politics/2012/10/new_mexico_has_become_a_safe_democratic_state_because_of_a_growing_hispanic_population_native_americans_and_bad_republican_talking_points_.html (reporting that New Mexico is now a safely democratic state and that ethnically, it is 46.7 percent Hispanic and 10.1 percent Native American).

2. McKernan, S., C. Ratcliffe, and D. Kuehn, *Prohibitions, price caps, and disclosures: A look at state policies and alternative financial product use.* Washington, D.C.: THE URBAN INSTITUTE, (Nov. 2010). These authors found that in New Mexico, the usage rate of payday loans was 15%, compared to 10% nationally, and that the usage rate for title loans was10% compared to 6% nationally. *Id.*

3. Author Nathalie Martin regularly speaks to the public about payday and title loans, both in and outside New Mexico. Understandably, people who live in states in which high-cost loans are illegal, or in any case, less prevalent often express surprise when they learn that it is legal in some states to change 1,000% or more for consumer credit. What is alarming is that even people within New Mexico seem to have little knowledge that this lending is taking place. One highly educated 50-year old woman who was participating in a governor's financial literacy Summit with Professor Martin in 2011 expressed disgust at the rates charged by pawnshops, which are capped at 48%. More recently, at a 2012, meeting of the Consumer Financial Protection Bureau held with leaders in Indian Country in New

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Our data are consistent with that of previous studies showing that the general public overwhelmingly supports interest rate caps both in general and for certain types of loans. More uniquely, we also found that many consumers are unaware that there are no interest rate caps on many forms of consumer loans. These data are useful in explaining why consumers do not do more to change the law on interest rate caps.

Given that payday loans and other high-interest credit products are typically regulated through state statutes, these data raise fundamental questions about the efficacy of state legislation in regulating high-cost credit. More specifically, in situations in which there seems to be little to no political will among politicians to impose interest rate caps, does it matter that a majority of the general public believes there *should be* interest rate caps? Do these data suggest the need for more public education about the law and the legislative process, or is it simply a call for federal interest rate caps? Here, we report on these data, but do not attempt to answer these questions.

1.THE LAW AND POLITICS OF INTEREST RATE CAPS

A. The Law of Interest Rate Caps

There currently is no federal law regulating interest rates on consumer loans, although the Truth in Lending Act,[4] the Electronic Fund Transfer Act,[5] and other general federal laws apply to consumer lending. The issue of capping or limiting interest rates is thus left in the hands of state legislatures. In some parts of the country, primarily eastern seaboard states, state law sometimes caps the amount of interest and fees a lender can charge a borrower for any type of consumer loan in a way that is, as Professor Christopher Petersen describes it, undiluted and trim.[6] If the cap is 18%, no lender can charge more than 18% for a loan of any kind, including fees, no exceptions.

In most of the country, however, undiluted and trim interest rate caps are rare indeed. More specifically, eighteen states plus the District of Columbia either forbid payday lending or cap interest rates in a fashion that

Mexico, a high level official said he knew the loans were expensive but did not see how they could be 400%. This is because the loans are advertised in terms of costs per two-week (for example, $15 per $100 borrowed) period or even per day ($2.00 per day, less than a coffee).

4. Truth in Lending Act, 15 U.S.C. §§ 1601–1667f (2006).

5. Electronic Funds Transfer Act, 15 U.S.C. §§ 1693–1693r (2006).

6. Christopher Petersen*, Usury Law, Payday Loans, Statutory Sleight of Hand: Salience Distortion in American Credit Pricing Limits*, 92 MINN. L. REV. 1110, 1117 (2008).

makes lending undesirable for lenders.[7] The states that ban or cap payday loans at 36% or less are Arizona, Arkansas, Colorado, Connecticut, District of Columbia, Georgia, Maine, Maryland, Massachusetts, Montana, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Vermont, and West Virginia.[8]

B. The Politics of Interest Rate Caps

The politics of interest rate caps are sometimes counterintuitive. While one would think that Democratic states would be more likely to cap interest on consumer loans, given that Republican governments tend to eschew regulation that is not the case. Democratic states are no more likely to have interest rate caps than Republican ones. Of the states that *do* cap interest, four are swing states, ten are blue states, and ten are red states.[9] In the blue state in which this study was completed, New Mexico,[10] there has been a deep and abiding resistance to imposing interest rate caps on loans of any kind.[11] Conversely, the red states of Montana and Arizona[12] recently

7. CORPORATION FOR ENTERPRISE DEVELOPMENT, PROTECTIONS FROM PREDATORY SHORT-TERM LOANS 2 (2012), *available at* http://cfed.org/assets/scorecard/2013/rg_PredatoryLending_2013.pdf; *See also Payday Lending Statutes*, NATIONAL CONFERENCE OF STATE LEGISLATURES, http://www.ncsl.org/issues-research/banking/payday-lending-state-statutes.aspx (last updated Sept. 12, 2013).

8. CORPORATION FOR ENTERPRISE DEVELOPMENT, *supra* note 7; *See also Payday Lending Statutes*, *supra* note 7.

9. *Red and Blue States Map (Average Margins of Presidential Victory)*, WIKIMEDIA COMMONS, http://commons.wikimedia.org/wiki/File:Red_and_Blue_States_Map_(Average_Margins_of_Presidential_Victory).svg (last modified Feb. 16, 2013).

10. *Id.*

11. Payday lenders began appearing in New Mexico after the state repealed its General Usury statute (former N.M. STAT. ANN. § 56-8-11-1) in 1991. Prior to the summer of 2007, New Mexico was one of only two states that had no regulation of payday lending. Alexander Bartik et al., *Regulating Predatory Payday Lending: A State-by-State Analysis*, ROOSEVELT INST. AT YALE CTR. ON ECON. POL'Y (2007), *available at* https://www.efis.psc.mo.gov/mpsc/commoncomponents/viewdocument.asp?DocId=935476227, (last visited September 13, 2013). The other state is Wisconsin, which still has no payday lending regulation. For five very long and frustrating years, the New Mexico Legislature debated various payday-lending statutes.

Finally, during the legislative session of 2007, the New Mexico State Legislature adopted a set of changes to the New Mexico Small Loan Act of 1955 intended to address payday lending in New Mexico. These regulations went into effect in July 2007. The new law capped interest and fees at $15 per $100, which results in an effective interest rate of 390% or higher, but the new law applied only to lenders engaged in the business of lending amounts of $2,500.00 or less, and defined a loan covered by the Act as one of 14 to 35 days in duration, for which the consumer gives the lender a check or debit authorization for the amount of the loan plus interest and fees. N.M. STAT. ANN. § 58-15-3(A) (West 2013). In the end, this narrow definition gutted the legislation. The industry quickly switched to loan products that fall outside the statute, namely longer loans or those not involving a post-dated check. None of the new loans (typically called "installment loans") are regulated at all in the state. Thus, the state spent several years attempting to regulate payday lending but the resulting law has done nothing to change short-term lending or high interest rates.

12. *Arizona Payday Loan Reform, Proposition 200 (2008)*, BALLOTPEDIA, http://ballotpedia.org/wiki/index.php/Arizona_Payday_Loan_Reform,_Proposition_200_(2008) (last modified May 28, 2012)

kicked payday lenders out of their states, because, as a Montana ballot campaign explained, "400% is too much."[13]

C. A Look into the Loan Products in States without Caps

One might wonder what loans and lending practices look like in states in which interest rates are generally not capped. How high are the rates at which consumers borrow? Who uses high-cost loans? Even assuming that most borrowers are low-income borrowers with poor credit histories and thus few other lending options,[14] do rates respond to market forces and drop when more lenders enter a market? At least as to this last question, the answer seems to be no. Thus far, market forces have had little to no effect on interest rates for most high-cost loans.[15] Indeed, despite that high-cost lending is the fastest growing segment of the consumer lending business,[16]

(voters in Arizona defeated a payday sponsored ballot initiative, mandating an end to state statutes that allow 400% interest rates); *Montana Loan Interest Rate Limit, I-164 (2010)*, BALLOTPEDIA, http://ballotpedia.org/wiki/index.php/Montana_Loan_Interest_Rate_Limit,_I-164_(2010) (last modified July 6, 2012).

13. Celinda Lake & Joshua Ulibarri, *Results of a Statewide Survey on a Montana Ballot Initiative to Cap Interest Rates of Predatory Lenders,* LAKE RESEARCH PARTNERS (January 2010), http://www.consumerfed.org/pdfs/Publicmemo-MT-Payday.pdf; *Payday Lenders Less Popular than Liquor Stores*, CTR. FOR RESPONSIBLE LENDING (Feb. 23, 2011), http://www.responsiblelending.org/media-center/press-releases/archives/Payday-lenders-less-popular-than-liquor-stores-majority-of-voters-would-support-moratorium-according-to-San-Jos%C3%A9-poll.html#; *Poll Shows Support for Capping Payday Loan Rates and Fees*, THE VINDICATOR (January 25, 2013), http://www.thevindicator.com/news/article_2d0406f0-6714-11e2-997e-0019bb2963f4.html; *Montana Loan Interest Rate Limit*, BALLOTPEDIA, *supra* note 12 (reporting that nearly 72% of Montana voters voted to cap interest rates on payday and auto title loans at 36% APR); *Ohio Payday Lender Interest rate Cap, Issue 5 (2008)*, BALLOTPEDIA, http://ballotpedia.org/wiki/index.php/Ohio_Payday_Lender_ Interest_Rate_Cap,_Issue_5_(2008) (last modified Aug. 8, 2013).

14. This assumption may be wholly incorrect, but this is clearly what lenders say to justify their products and existence. *See* Karen E. Francis, *Rollover, Rollover: A Behavioral Law and Economics Analysis of the Payday-Loan Industry*, 88 TEX. L. REV. 611, 617 (2010) ("No matter which studies most accurately describe the loan-market participants, clearly payday borrowers are low-to-moderate-income individuals, many of whom have alternative credit sources or easily accessible cash.").

15. At least with respect to payday loans, increased numbers of lenders has not driven down prices. *See* Michael A. Garemko III, Note, *Texas's New Payday Lending Regulations: Effective Debiasing Entails More Than the Right Message*, 17 TEX. J. C. L. & C. R. 211, 219-20 (2012); Nathalie Martin, *1,000% Interest—Good While Supplies Last: A Study of Payday Loan Practices and Solutions*, 52 ARIZ. L. REV. 563, 614 (2010) (stating, "The payday lending and other short-term lending industries are classic failed markets. The industry is young, having developed primarily in the 1990s. Thus, price competition is not yet necessary to create a strong market share. Rather, most lenders charge similar amounts for the same loan, typically the largest amount permitted by law."). Title loans may be somewhat different, however. Professor Jim Hawkins has found that that lenders compete on price at some level at least in Texas. *See* Jim Hawkins, *Credit on Wheels: The Law and Business of Auto Title Lending*, 69 WASH. & LEE L. REV. 535, 558-59 (2012).

16. *2011 Underbanked Market Sizing Study*, CTR. FOR FIN. SERVS. INNOVATION, Nov. 2012, at 1, *available at* http://www.cfsinnovation.com/system/files/CFSI_2011_Underbanked_Market_Sizing_Study_November_2012.pdf. This is a newsletter for the Center for Financial Services Innovation (CFSI), which claims to be:

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rates seem to hover between 400% and 1,000% on the most common high-cost loan products, regardless of how many lenders enter the market.

There are many varieties of high-cost loans, each with a variety of terms. One example is the so-called "installment loan" created to skirt a New Mexico state law requiring loans made for fourteen to thirty-five days to limit interest and fees to $15 per $100 borrowed for up to fourteen days per loan. In one such installment loan, described in a recent case brought against a lender by the state Attorney General's Office, a customer borrowed $100, to be repaid in twenty-six bi-weekly installments of $40.16 each, plus a final installment of $55.24.[17] In total, this borrower paid $100 in principal and $999.71 in interest for a total of $1,099.71 on the $100 loan. The annual percentage rate on the loan was 1,147%.[18]

Another example of a common form of high-cost loan in a state without caps is a true "payday" loan, so named because its original purpose was to help a customer to survive a short-term cash flow crisis between the time of the loan and the customer's next payday.[19] In a typical loan, a consumer borrows money at a rate of between $15 and $25 per $100, between now and payday, meaning for a period of fourteen days or less.[20] For example, if a consumer got paid four days ago but is already out of cash, she can borrow $390 from a payday lender and pay it back on her next payday, now ten days away. To get that $390 at the $15 per $100 rate, she would need a

> The nation's leading authority on financial services for underserved consumers. Through insights gained by producing original research; promoting cross-sector collaboration; advising organizations and companies by offering specialized consulting services; shaping public policy; and investing in nonprofit organizations and start-ups, CFSI delivers a deeply interconnected suite of services benefiting underserved consumers." A pro-payday and title loan industry group, CFSI's research is funded by Morgan Stanley.

Id. at 8. *See also* Fahzy Abdul-Rahman, *Small-Dollar Predatory Lending and Bad Loans,* GUIDE G-260 (Coop. Extension Serv., Coll. of Agric., Consumer, and Envtl. Sciences, La Cruces, NM), November 2012, *available at*, http://aces.nmsu.edu/pubs/_g/G260.pdf. Abdul-Rahman reports that between 1992 and 2000, the number of predatory lenders in New Mexico grew from one per 66,000 citizens to one for every 5,212 citizens. *Id.* He also notes that:

> In New Mexico, the highest concentrations of predatory lending stores tend to be in smaller cities and cities with high minority populations and/or high poverty rates, such as Gallup (880 people per lender), Grants (881 people per lender), and Farmington (1,647 people per lender), which collectively represent six times the rate in the rest of New Mexico in 2000.

Id. (citation omitted).

17. *See New Mexico, ex rel., Gary K. King v. B & B Inv. Grp.*, No. D-01010CV-2009-01916 at 1-2 (1st Dist. NM, Dec. 3, 2010); *see also* Felix Salmon, *Loan Sharking Datapoints of the Day*, REUTERS (Jan. 6, 2010), http://blogs.reuters.com/felix-salmon/2010/01/07/loan-sharking-datapoints-of-the-day/.

18. *King*, No. D-01010CV-2009-01916 at 1-2.

19. *See* Ronald J. Mann & Jim Hawkins, *Just Until Payday*, 54 UCLA L. REV. 855, 857 (2007) (explaining the mechanics of a typical payday loan); Francis, *supra* note 14, at 611-12 (describing a payday loan transaction).

20. *See* Nathalie Martin, *1,000% Interest—Good While Supplies Last: A Study of Payday Loan Practices and Solutions*, 52 ARIZ. L. REV. 563, 564 (2010) (giving an example of a typical payday loan).

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checking account. She would write a check or authorize an automatic debit for $460, post-dated to her next payday.[21] When payday comes, she can either let the check or debit clear, assuming the unlikely event that she now has this money, or she can go in and pay another $60 to borrow the same $390 for the next two weeks. The annual percentage rate for a loan of this kind is 400% or more, depending on the number of days for which the loan remains outstanding.[22]

Still another example of a common high-cost loan product in a state without caps is the auto title loan, for which customers do not need bank accounts.[23] Rather, they simply need an unencumbered automobile, which secures the loan. These loans carry a typical interest rate of 25% per month, or 300% per annum.[24] While title loans usually carry lower interest rates than payday loans, they tend to be larger loans, increasing the chances that they will be difficult to repay and will create debt traps.[25] They also subject the borrower to the possibility of losing their vehicle, a risk not endured with the other forms of high-cost loans described here.[26]

These are but a few examples of the types of loans that are available to consumers in states without caps.

II. Public Opinion on Interest rate Caps and Other Limits on Payday-style Lending

Our data augment a large body of existing data showing public support for interest rate caps either in general, or in the context of payday-style loans. For example, in Montana, 75% of the population supported a ballot

21. *Id.*

22. While some lenders argue that it is inappropriate to state a loan like this in terms of annual percentage rate, because the loans are short-term loans, they are not actually used as short-term credit. It is common for borrowers to have numerous loans per year and to roll them over repeatedly so borrowers are in loan like this most of the time. *See* Francis, *supra* note 14, at 613, 617-18.

23. Kathryn Fritzdixon, Jim Hawkins & Paige Marta Skiba, *Dude, Where's My Car Title?: The Law, Behavior, and Economics of Title Lending Markets*, 2014 U. ILL. L. REV. (forthcoming 2014); Nathalie Martin & Ozymandias Adams, Grand Theft Auto Loans: Repossession and Demographic Realities in Title Lending, 77 MO. L. REV. 41 (2012).

24. *See* Martin & Adams, *supra* note 23, at 60; Hawkins, Fritzdixon & Skiba, *supra* note 23, at 2.

25. *See* Martin & Adams, *supra* note 23, at 74. Notably, Professor Jim Hawkins has found that borrowers do not fully understand the costs of title loans. *See* Hawkins, *supra* note 15, at 557. The people he surveyed did not exhibit an understanding of the high relative cost of title loans compared to credit card debt. Only 25.71% (n = 9) recognized that a title loan is a lot more expensive than credit card debt, while 17.14% (n = 6) thought a title loan is a lot less expensive than credit card debt. 5.71% (n = 2) thought a title loan was a little less expensive than credit card debt, and 31.43% (n = 11) thought the two were about the same cost. While this small sample of people may not be indicative of borrowers generally, it is disturbing how few people understood the relative cost of their title loan."

26. Martin & Adams, *supra* note 23, at 78-80, 85-86.

initiative capping interest on all consumer loans at 36%.[27] Similarly, after hearing that payday and title lenders can charge 500% or more in Texas, 63% of Texans age forty-five or older strongly agreed that the state should cap interest rates and fees, with 79% of respondents reporting that they believe the cap should be 36% or less.[28] In another survey taken by the Texas Fair Lending Alliance[29] as well as Texas Faith for Fair Lending, between 79% and 85% of people polled favored capping interest rates on payday and auto title loans at 36% APR or less.[30]

In Iowa, survey data show that seven in ten Iowans believe payday loan rates and fees should be capped.[31] Arizonans overwhelmingly voted to end payday lending in the state.[32] Similarly, in 2008, 63% of Ohioans voted to cap interest in the state at 28%.[33] In Rhode Island, the only state in New England to allow payday lending, a public poll showed that 76% of

27. *Results of a Statewide Survey on a Montana Ballot Initiative to Cap Interest Rates of Predatory Lenders,* LAKE RESEARCH PARTNERS (Jan. 2010), http://www.consumerfed.org/pdfs/Publicmemo-MT-Payday.pdf; CTR. FOR RESPONSIBLE LENDING, *supra* note 13; *Montana Loan Interest Rate Limit*, BALLOTPEDIA, *supra* note 13 (reporting that nearly 72% of Montana voters voted to cap interest rates on payday and auto title loans at 36% APR); *Ohio Payday Lender Interest Rate Cap*, BALLOTPEDIA, *supra* note 13.

28. *Summary of AARP Poll of Texans Age 45+,* AARP (Jan. 2013), http://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2013/Summary-of-AARP-Poll-of-Texans-Age-45-Plus-Opinions-on-Payday-Loan-Rates-and-Legislation-AARP.pdf; THE VINDICATOR, *supra* note 13; P*ayday and Auto Title Lending*, LBJ SCHOOL OF PUBLIC AFFAIRS, CENTER FOR POLITICS AND GOVERNANCE, http://www.utexas.edu/lbj/cpg/docs/f3_2013_payday.pdf (last visited Sept. 20, 2013) (containing an excellent summary of existing Texas law).

29. The Texas Fair lending Alliance is a Texas coalition comprised of more than three-dozen financial, community and faith organizations a group dedicated to bringing increased regulation to the payday loan industry. *Texas Fair Lending Alliance*, UNITED WAY HOUSTON, http://www.unitedway houston.org/default/Texas%20Fair%20Lending%20Alliance-%20AEI%20Presentation.pdf (last visited Oct. 6, 2013).

30. Rudolph Bush, *Statewide Survey Shows Broad Support for Payday Lending Reform*, DALLAS NEWS CITY HALL BLOG (June 21, 2012, 9:41 AM), http://cityhallblog.dallasnews.com/2012/06/statewide-survey-shows-broad-support-for-payday-lending-reform.html/ (reporting that 79% of Texans polled favored capping interest rates on payday and auto title loans at 36% APR or less); THE VINDICATOR, *supra* note 13.

31. *Iowans for Payday Loan Reform: Iowa Poll Reveals Strong Bi-partisan Support for Payday Lending Reform,* IowaPolitics.com (Jan. 26, 2011), http://www.iowapolitics.com/index.iml?Article=224730 (reporting that 7 in 10 Iowans called for capped payday loan interest rates).

32. *Arizona Payday Loan Reform,* BALLOTPEDIA, *supra* note 12 (voters in Arizona defeated a payday sponsored ballot initiative, mandating an end to state statutes that allow 400% interest rates). Title loans are not restricted in Arizona, however, causing lenders to morph from payday loans to title loans. *See* Maureen West, *Payday Lenders Morphing Into Auto Title Lenders*, AARP (Dec. 10, 2010), http://www.aarp.org/money/scams-fraud/info-12-2010/payday_lenders_morphing_into_auto_title_lenders.html.

33. *Ohio Payday Lender Interest Rate Cap*, BALLOTPEDIA, *supra* note 13 (reporting that over 63% of Ohio voters voted in favor of capping the Ohio payday loan industry's interest rate at 28%); *2010 Payday Lending Poll Results,* CATHOLIC CONFERENCE OF OHIO (April 29, 2010), http://www.ohiocathconf.org/i/EJ/GraphWork04.pdf.

Rhode Islanders supported capping interest on payday loans.[34] Citizens of Kentucky similarly voted for a 36% cap on all loans.[35] Finally, in Colorado, voters agreed there was a need for a similar 36% cap.[36] On the national front, a survey by the Center for Responsible Lending showed that three out of four Americans who expressed an opinion thought that Congress should cap interest rates, and 72% felt that the caps should be no higher than 36%.[37] Indeed, no study has found a public desire *not* to cap interest rates.

Additionally, as the next section describes, the public seems to think such caps are in place even when they are not, suggesting that people are ill-informed about what the law actually provides. Our data show that at least in one small state with huge numbers of high-cost lenders, many people simply have no idea that 500% and 1,000% loans exist and perhaps more critically, they are uniformly surprised to hear that this type of lending is legal.[38]

III. THE STUDY

A. Introduction to Study Methodology

The purpose of our study was to assess the public's understanding of and attitudes about financial practices associated with borrowing and lending. We wondered how knowledgeable the general public is about current

34. Press Release, R.I. Office of the Gen. Treasurer, Coalition, Raimondo, Taveras Raise Awareness on Payday Lending Pitfalls (Apr. 17, 2012), http://www.ri.gov/press/view/16334 (reporting that 76% of Rhode Islanders polled support capping payday loan interest rates); *2010 Payday Lending Poll Results*, *supra* note 33.

35. *Kentucky Voters Support a 36 Percent Rate Cap on Payday Loans, Despite Database and Job Loss Threat*, KY. COALITION FOR RESPONSIBLE LENDING, http://kyresponsiblelending.org/wp-content/uploads/2012/10/Poll-data-fact-sheet.pdf (last visited Sept. 19, 2013).

36. Isabel Nicholson, *The Truth About Payday Loans: How Hardworking Coloradans Take the Bait and Get Caught in a Cycle of Debt*, BELL POL. CTR. (Feb. 15, 2008), https://bellpolicy.org/sites/default/files/PUBS/IssBrf/2008/02PaydayLoansweb.pdf.

37. *Congress Should Cap Interest Rates*, CTR. FOR RESPONSIBLE LENDING (March 2009), http://www.responsiblelending.org/payday-lending/policy-legislation/congress/interest-rate-survey.pdf; Christopher L. Peterson, *'Warning: Predatory Lender' - A Proposal for Candid Predatory Small Loan Ordinances*, 69 WASH. & LEE L. REV. 893 (2012), *available at* http://ssrn.com/abstract=1971971 ("Over a hundred different local governments around the country have adopted ordinances restricting high cost, small loans. This trend reflects the solid majority of the American public that opposes the legality of triple-digit interest rate loans and the long historical tradition of treating payday and car-title lending as a serious civil offense or even a crime.").
Id. at 893-95, n.1 (citing CTR. FOR POL. ENTREPRENEURSHIP, *Poll on Payday Lending Legislation* (Feb. 15, 2008), *available at* http://www.c-pe.org/download/PaydayLendingReform/PollPaydayLending.pdf (stating that a weighted sample of 500 Colorado voters found "74% of respondents are in favor of proposed legislation that will set a cap of 36% on the interest and fees that a company can charge for payday loans").

38. *See infra* notes 42-49 and accompanying text.

interest rates for various types of loans. We were also interested in what views people held regarding the role of government regulation in borrowing and lending, and more particularly, whether governments should cap interest on loan products. In the state in which our study was conducted, there are no interest rate caps for most loans,[39] and high-cost lenders and products are ubiquitous. This circumstance allowed us to test the hypothesis that people were unaware of the high interest rates even in a place in which high cost loans were extremely common. We gathered data on these and other topics and then investigated relationships between respondents' financial beliefs and attitudes on the one hand, and various personal demographics such as education and religiosity on the other. The results of the study have potential implications for influencing new legislation and revising existing legislation governing the high-cost lending industry.

B. Methods

We developed a twenty-eight-item survey to assess people's knowledge and beliefs about various financial issues. The questions and data discussed in this article are contained in Appendix A. The survey was administered to two separate groups of respondents through the Opinio survey system. Participants responded to the Internet survey at their own convenience using personal computers available to them.

Subjects. A group of 105 college students participated in the survey to partially fulfill a research requirement in an undergraduate psychology course. A second group of ninety-four participants was solicited through ads placed in local newspapers in several large cities throughout New Mexico. The public participants were remunerated with a $10 Wal-Mart card. The study was approved through the University of New Mexico's Institutional Review Board.

C. Results

1. General

We compared the college students and the general population by performing a chi-square test of independence[40] on the two groups' answers to each question. The groups differed significantly on several items, but these were mostly demographic questions such as age, education level, occupa-

39. For one exception, see Bartik, *supra* note 11 and accompanying text.

40. .DAVID C. HOWELL, FUNDAMENTAL STATISTICS FOR BEHAVIORAL SCIENCES 502-531 (7th. ed. 2010), *available at* http://yunika1106.files.wordpress.com/2013/03/fundamental-statistics-behavioral-sciences.pdf.

tion, and income—characteristics that would be expected to differ between a college group and the general population. In addition, we observed that students were less likely to have taken out loans, had borrowed less money on loans when they did take out loans, and guessed the annual percentage interest rates of loans as being somewhat lower compared to the public group. However, there were no significant differences for the remaining questions, so we combined the results for the two groups into a single sample of 199 participants to simplify analysis and reporting of the findings.

Appendix A shows the proportions of responses to each question for the combined sample of participants. The respondents were roughly two-thirds female, 50% students, and 60% thirty years of age or younger. Seventy percent had an annual income of $30,000 or less, and about two-thirds had graduated from high school or had some college education. Approximately 45% were registered Democrats and 42% percent identified themselves as either liberal or very liberal in their political/social views. In addition, 40% of the respondents identified themselves as either religious or very religious and 30% were Catholic, the largest religious category.

2. Findings Related to Beliefs about Interest Rate Caps

a. Credit Card Interest Rates

Questions 6 through 14 related to consumers' use and knowledge of the law related to credit cards.[41] Because part of the purpose of this Article is to share our finding that the public lacks knowledge about the laws of interest caps, as well as our findings of broad public bipartisan support for interest rate caps, this discussion focuses on questions related to these two topics. More information on related questions is available in Appendix A. As a starting point, 45% of the respondents had borrowed money on a credit card and most of these had carried over a balance from month-to-month. Question 6 asked, "When borrowing money with a credit card, do you believe the current law limits or caps the maximum annual percentage interest rate that a lender can charge?" Over 58% of participants thought that the current law *does* limit the amount of interest rates a credit card company can charge. In fact, the law contains no such limit, showing that well over half of the public is misinformed about the protections the law provides with respect to credit card interest rate caps.

41. More specifically, Questions 1-14 related to how often consumers pay off credit cards in full, what the actual interest rates are on credit cards, and whether the participants use credit cards, and what sized balances they carry, the results of which can be found *infra* Appendix A.

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Question 7 asked those who thought there *was* a cap on interest rates on credit cards which of the following annual percentage rates (10% or lower, 25%, 50%, 200% or higher) was closest to the maximum annual percentage interest rate allowed by law for money borrowed on a credit card. Over 48% of participants thought the rate was 25% or lower, with 25% being the most common rate chosen by those who thought there was a cap. Question 8 asked "When borrowing money with a credit card, do you think the current law *should* limit or cap the annual percentage interest rate a lender can charge?" Over 90% of participants thought that the law should limit rates on credit card interest. Question 9 asked those who thought there *should* be a cap what that cap should be, giving the following choices: 10% or lower, 25%, 50%, 100%, or 200% or higher. Nearly 53% of participants thought the rate should be 10% or lower and over 29% thought the credit card rate cap should be 25%. Collectively then, over 82% of all participants thought credit card interest rates should be capped at 25% or less.

Question 10 asked participants to assume that Sally, a hypothetical consumer, charged items on her credit card, and that the credit card company knew that Sally would not be able to pay back the amount borrowed. The question then asked participants whether they believe it was legal for the lender to still lend her the money. The majority of the participants, nearly 59%, incorrectly thought the loan was illegal if the lender knew Sally had no ability to repay the loan. In the U.S., knowledge of an inability to repay a loan rarely affects the legality of a loan and certainly does not do so in the context of credit card debt.[42] Once again, these data show that the public is misinformed about the law related to credit card debt.

b. Storefront or Short-term Loans

Questions 15-23 related to participants' knowledge and use of storefront loans or short-term loans, which were defined in the study as a loan "due either on your next payday or in some other short period of time" where "[y]ou may also have to give your car title in exchange for the money." The definition of short-term loan was written broadly enough to incorporate payday loans, title loans, and triple-digit interest rate "installment loans," a relatively new product in New Mexico designed to get around a

42. *See* John Pottow, *Ability to Pay*, 8 BERKELEY BUS. L.J. 175, 175-77 (2011). This article discusses how new Consumer Financial Protection Bureau rules allow the agency to consider whether mortgage borrowers had an ability to pay when considering whether a mortgage loan is enforceable. The article also notes that considering a borrower's ability to pay is a total sea change in the world of U.S. consumer lending, calling it a "profoundly transformative innovation." *Id.* at 176. The article also notes that considering a borrower's ability to pay is common in European consumer law. *See id.* at 189-91.

new law limiting the rate on payday loans to 417% or less.[43] Question 15 asked, "When borrowing money with a short-term loan, do you believe the current law limits or caps the maximum annual percentage interest rate that a lender can charge?" Roughly 56% of participants said no, which is correct because as a general matter, New Mexico law does not cap interest on consumer loans.[44]

Even though nearly half of the participants (almost 44%) were ignorant of the law on interest rate caps and short-term loans, we were actually a bit surprised that so many New Mexicans *knew* that short-term loans carried no interest rate caps. One of us who works and writes in the area of payday and title loans extensively rarely encounters anyone in the middle class who knows that these rates are *not* capped. Perhaps people were more aware of the law than we expected because a rather astounding 23% of our participants reported having taken out a short-term loan. Previous New Mexico data show that 15% of New Mexicans use payday loans and that 10% use title loans.[45] These percentages are much higher than the estimated 5% of the population nationally that use high-cost payday or title loans.[46] New Mexico's high-cost loan usage rates could be even higher than we found, given that we only advertised our survey in major metropolitan areas, and that payday and title loan shops are even more concentrated in smaller towns in our state.[47]

Question 16 asked those people who *thought* there was a cap on storefront or short-term loans to predict which of five categories of rates they believed was the maximum annual rate. Only a tiny percentage of people in

43. *See* Martin, *supra* note 20, at 564 (description of the ways in which lenders have tried to get around existing laws and an example of a typical payday loan and a typical installment loan); Martin & Adams, *supra* note 23, at 42-43 (description of a typical title loan). *Id.* at 91 n.221. The survey instrument described a short–term loan as follows: During the next several questions you will be asked about short-term loans. By short-term loan we mean a loan taken out at a storefront lender and is usually due either on your next payday or in some other short period of time. You may also have to give your car title in exchange for the money. You will be asked what you think the law *is*, as well as what you think the law *should be* with respect to short-term loans.

44. *See* Bartik, *supra* note 11. New Mexico attempted to cap interest on payday loans at around 390% but the law contained a large loophole, through which lenders began offering payday loans without post-dated checks, which placed the loans outside the statute and made them completely unregulated. Technically then, payday loans are capped at 390% in the state and there is no cap on all other loans.

45. *See* Appendix A, Question 22; McKernan, Ratcliffe, & Kuehn, *supra* note 2. These authors found that in New Mexico, the usage rate of payday loans was 15%, compared to 10% nationally, and that the usage rate for title loans was10% compared to 6% nationally. While our 23% at first seemed higher than previous data from New Mexico, our data include payday and title loan usage, as well as other short-term loan like high-interest installment loans.

46. *Payday Lending in America*, PEW CHARITABLE TRUST 22-23 (July 2012), *available at* http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Payday_Lending_Report.pdf. (finding that 5.5% of borrowers reported using payday loans nationally).

47. Abdul-Rahman, *supra* note 16, at 1.

New Mexico who thought there *was* a cap on interest for storefront or short-term loans believed such a cap was 200% or more. Since existing loans carry a rate of far greater than 200%, these data are further evidence that many people are generally unaware of the true high cost of high-cost lending.

Question 17 asked, "When borrowing money with a short-term loan, do you think the current law *should* limit or cap the maximum annual percentage interest rate a lender can charge?" Approximately 86% of participants thought that the current law *should* cap interest and fees on storefront or short-term loans. Question 18 asked those who thought rates *should be* capped for storefront or short-term loans to choose a rate at which such loans should be capped. When faced with choices of 10% or lower, 25%, 50%, 100%, or 200% or higher, over 72% of participants felt that the closest approximation of the rate at which these loans should be capped was 25% or less. Interestingly, people who had themselves taken out short term loans were more in favor of interest rate caps than the general public, though not by a large margin. Over 95% of those who had taken out a short-term loan favored caps on short-term loans, whereas less than 85% of those who had not done so favored such caps.

Similar to the question asked with respect to credit cards, Question 19 asked participants to assume that our hypothetical consumer, Sally, took out a short-term loan, and that the lender knew that Sally would not be able to pay back the amount borrowed. It then asked participants if they thought the loan was legal. Approximately 56% of participants thought such a loan would *not* be legal, despite that, as with credit cards, the ability to pay back a short-term loan such as a payday, title loan, or installment loan, does not affect the legality of the loan.[48] Additionally, Question 21 asked partici-

48. This will change under the new Consumer Financial Protection Bureau regulations. As enacted, Dodd-Frank Section 1411(b) amends the Truth In Lending Act ("TILA") Chapter 2, 15 U.S.C. § 1631-51 (2006), by inserting a new section 129C. 15 U.S.C.A § 1639c (2013 West). Title XIV of Dodd-Frank is subtitled the "Mortgage Reform and Anti-Predatory Lending Act," and Section 1411 provides the following new obligation on all mortgage lenders (originators and brokers):

> Minimum standards for residential mortgage loans.
>
> (a) Ability to Repay. —
>
> (1) In general. —In accordance with regulations prescribed by the Board, no creditor may make a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance (including mortgage guarantee insurance), and assessments.

Id. Dodd-Frank also provides that:

> (3) Basis for determination. —A determination under this subsection of a consumer's ability to repay a residential mortgage loan shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio or the residual income the consumer will have after

pants to predict the actual rate of interest on short-term loans. While 19% accurately reported that the typical loan rates were 200% or more, the other 81% had no idea that rates on payday, title, or installment loans were 200% per annum or higher. These data show a huge lack of awareness of the true cost of high-cost credit.

3. Cross-tabulated Data

As set out above, we also cross-tabulated data between pairs of questions. This analysis allowed us to investigate whether respondents who tended to answer a question in one way also tended to answer a second question in a certain way, and thus allowed us to examine the relationship between two different characteristics. For example, are socially conservative people (Question 25) more likely to oppose government regulation of interest rates (Question 28) than liberals? These crosstab analyses are more complex to perform and report, but they can uncover interesting relationships among participants' beliefs. The results are reported in Appendix B, in Tables B1 through B3. A significant chi-square test (i.e., $p < .05$) indicates that a person's response to one question tended to dictate their response to the other question. There were 124 statistically significant crosstab relationships in all, but many of these were expected dependencies between demographic characteristics, such as older respondents were more educated and had higher incomes. Appendix B shows significant crosstab relationships for selected questions. For each crosstab analysis, we report the conditional proportions of respondents in each row along with the results of a chi-square test.

Table B1 shows that in our sample of respondents, men were more conservative than women. The male-to-female ratio varied from 60:40 for those identifying as very conservative to 28:72 for those identifying as very liberal. Interestingly, there was little difference in the male to female ratios for political party (Question 24),[49] religious affiliation (Question 26), or

> paying non-mortgage debt and mortgage-related obligations, employment status, and other financial resources other than the consumer's equity in the dwelling. . . . A creditor shall determine the ability of the consumer to repay using a payment schedule that fully amortizes the loan over the term of the loan.

Id. The Credit Card Act provides a similar provision with respect to credit cards. Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. No. 111-24, § 109, 124 Stat. 1743 (2009) ("A card issuer may not open any credit card account for any consumer under an open end consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the ability of the consumer to make the required payments under the terms of such account."). *See generally* Pottow, *supra* note 42 (discussing the Dodd-Frank's Act's ramifications on the credit industry).

49. We acknowledge that political party affiliation does not predict attitudes on all issues and also that many complex attitudes go into determining whether a person believes or does not believe that interest rates on consumer loans should be capped. Given these complexities, our only goal was to test

religious beliefs (Question 27). The political/social distinction between men and women was maintained despite commonalities among these other characteristics.

Table B2 shows that support for government regulation of interest rates (Question 28) varied as a function of political/social views (Question 25). As one might expect, liberals, more so than conservatives, were more likely to favor government regulation of interest rates. However, somewhat surprisingly, even among those who identified themselves as very conservative, the majority (57%) believed that government should set limits on interest rates. Table B3 shows a similar relationship among political party and endorsement of government regulation of interest rates. Democrats were more likely to favor government regulation of interest rates than Republicans, but even among Republicans, 74% endorsed government regulation. Although not reported in Appendix B, we found a similar pattern of responses for the more specific questions about government regulation of interest rates for credit cards (Question 8) and short-term loans (Question 17).

Considered collectively, these data show deep, bipartisan public support for interest rate caps and raise abiding questions about whether the political system is working to create consumer protection laws that the public supports and desires. Based upon these data and assuming that politicians are elected to enact laws supported by the public, all politicians (regardless of political party) should support interest rate caps on either a state or national level.

CONCLUSION

Our data show widespread support for interest rate caps in two settings, credit cards and high-interest, payday and title-style loans. There is now a large body of survey data indicating that most Americans believe in interest rate caps. While our data show that more people who favor interest rate cap legislation are Democrats, the data also show that over 57% of people who report being "very conservative" politically and over 82% of those who report being "conservative" politically favor interest rate caps over no interest rate caps. Even in New Mexico, where there generally are no interest rate caps, the general public overwhelmingly favors caps.

the theory that democrats would be more likely as a whole to support interest rate caps that republicans, given that republicans generally favor less regulation rather than more. While this hypothesis proved true, a far larger percentage of republicans than we would have anticipated supported caps on interest rates.

These data raise fundamental questions about why the public is not more active in seeking out laws that cap interest. We think we know the answer. First, many people incorrectly think interest rates are capped (over 58% for credit cards and over 43% for short-term loans), when in reality these rates are not capped. In other words, people misunderstand and overestimate the protection the law currently provides. Second, even among those who know that the law provides *no* caps, most are unaware that lenders currently charge interest rates of 200% or more.

Indeed our data showed that when asked in Question 21, relating to the participants' knowledge of the average interest rate on a short-term loan, only 19% of participants knew that the actual rate was 200% or more. This means that even in a state in which there are no interest rate caps, where lenders regularly charge between 400% and 1,110% per annum for consumer loans, and where high-cost lenders are ubiquitous, 81% of the public is unaware of the costs of these loans. If the public was aware of current lending practices, these data suggest they would support enacting interest rate cap legislation.

APPENDIX A. SURVEY QUESTIONS AND RESPONSES

Below is the full set of survey questions and responses reported for the combined 199 participants (N=94 participants in the Public group and N=105 participants in the Student group). For questions where the proportions in a column do not sum to 100, then the remaining participants did not answer the question.

Question 1. Are you male or female?

Male	34.67
Female	65.33

Question 2. What is your age?

18-30	60.80
31-50	18.09
51 or older	21.11

Question 3. What is your education level?

High School Graduate or GED	39.20
Trade of Vocational Certificate	0.50
Associates Degree or Some College	28.64
Bachelor's Degree	17.59
Master's Degree	8.54
Doctor's Degree	5.53

Question 4. Which of the following categories best describes your job?

Student	52.26
Benefits recipient	0.50
Laborer	2.01
Office	3.02
Heathcare	5.03
Military	1.01
Sales	4.02
Education	5.03
Government	1.51
Management	2.51
Professional	6.03
Other	17.09

Question 5. What is your annual individual income?

less than $30,000	71.36
$30,000-$59,999	18.09
$60,000-$89,999	7.04
$90,000 or higher	3.52

Question 6. When borrowing money with a credit card, do you believe the current law limits or caps the maximum annual percentage interest rate that a lender can charge?

No	41.21
Yes	58.29

Question 7. If you answered yes to the previous question, which of the rates below do you believe is closest to the maximum annual percentage interest rate allowed by law for money borrowed on a credit card?

10% or lower	12.06
25%	36.68
50%	9.05
100%	0.50
200% or higher	1.51
I believe there is no maximum rate	40.20[50]

Question 8. When borrowing money with a credit card, do you think the current law *should* limit or cap the annual percentage interest rate a lender can charge?

No	8.04
Yes	90.45

Question 9. If you answered yes to the previous question, which of the rates below is closest to what should be the maximum annual percentage interest rate allowed by law for credit card loans?

10% or lower	52.76
25%	29.15
50%	8.04
100%	0.50
200% or higher	0.00
I believe there should not be a maximum rate	9.55

Question 10. Assume Sally charged items on her credit card, and the credit card company knew that Sally would not be able to pay back the amount borrowed. Do you believe it is legal for the lender to still allow her to borrow the money?

No	58.79
Yes	40.70

50. When there are slight variations in results from table to table, say between this figure and the first figure in Table 6, it means that once in a while, a person said they thought there was no cap, but then chose a cap in the next question. This was fairly rare, as these data show.

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Question 11. How often do you think people pay off the full loan amount on credit card loans each month?

Rarely, if ever	27.64
20% of the time	40.70
40% of the time	19.10
60% of the time	9.55
80% of the time	2.01
Almost always	0.50

Question 12. On average, what would you guess is the actual annual percentage interest rate charged on credit card loans?

10% or lower	17.59
25%	65.83
50%	12.06
100%	2.51
200% or higher	1.01

Question 13. Have you ever borrowed money with a credit card?

No	53.77
Yes	45.23

Question 14. If you answered yes to the previous question, what is the largest balance (amount rolled over from month to month) that you have ever carried on a credit card?

less than $1,000	18.59
$1,000 to $4,999	13.57
$5,000 to $9,999	9.05
$10,000 to $19,999	4.52
$20,000 or more	1.51
I have never carried a balance on a credit card loan	52.76

http://scholarship.kentlaw.iit.edu/cklawreview/vol89/iss1/6

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Question 15. When borrowing money with a short-term loan, do you believe the current law limits or caps the maximum annual percentage interest rate that a lender can charge?

No	56.28
Yes	43.22

Question 16. If you answered yes to the previous question, which of the rates below do you believe is closest to the maximum annual percentage interest rate allowed by law for money borrowed on a short-term loan?

10% or lower	9.55
25%	19.10
50%	12.56
100%	3.02
200% or higher	4.52
I believe there is no maximum rate	51.26

Question 17. When borrowing money with a short-term loan, do you think the current law *should* limit or cap the maximum annual percentage interest rate a lender can charge?

No	13.07
Yes	86.43

Question 18. If you answered yes to the previous question, which of the rates below is closest to what should be the maximum annual percentage interest rate allowed by law for short-term loans?

10% or lower	40.20
25%	32.66
50%	13.07
100%	2.01
200% or higher	0.00
I believe there should not be a maximum rate	12.06

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Question 19. Assume Sally took out a short-term loan, and the lender knew that Sally would not be able to pay back the amount borrowed. Do you believe it is legal for the lender to still allow her to borrow the money?

No	56.28
Yes	43.22

Question 20. How often do you think people pay off short-term loans under the loan terms, without borrowing the money again right away?

Rarely, if ever	25.63
20% of the time	28.64
40% of the time	22.11
60% of the time	15.08
80% of the time	5.53
Almost always	2.51

Question 21. On average, what would you guess is the actual annual percentage interest rate charged on short-term loans?

10% or lower	14.07
25%	28.14
50%	32.66
100%	5.53
200% or higher	18.59

Question 22. Have you ever taken out a short-term loan?

No	76.38
Yes	22.61

Question 23. If you answered yes to the previous question, what is the largest short-term loan you have had?

less than $1,000	10.55
$1,000 to $4,999	9.05
$5,000 to $9,999	3.52
$10,000 to $19,999	0.50
I have never had a short-term loan	76.38

Question 24. With which political party are you registered?

Democrat	44.72
Republican	21.11
Independent	14.57
None	19.60

Question 25. How would you rate your political/social views?

very conservative	7.54
conservative	17.09
neutral	33.67
liberal	27.14
very liberal	14.57

Question 26. How would you describe your religious affiliation?

Catholic	29.65
Protestant	12.56
Jewish	2.51
Muslim	0.50
Other	27.64
None	27.14

Question 27. How would you rate your religious beliefs?

very religious	9.55
religious	30.15
neutral	20.60
not very religious	16.58
not religious at all	23.12

Question 28. Do you believe the government should set limits on interest rates?

No	12.56
Yes	86.93

APPENDIX B: CROSSTAB ANALYSES OF SELECTED QUESTIONS

Below are crosstab analyses of selected pairs of questions. In each case, the combined group of 199 participants was used. The numbers in each cell refer to the proportion of respondents who answered the first question (row) one way, broken out by how they answered the second question (column). If the proportions in the rows vary significantly, then there is a dependency on how respondents answered the two questions. The last row in each table shows the proportion of responses collapsing across the row categories.

Table B1. Comparison of Question 25 (row: How would you rate your political/social views?) and Question 1 (column: Are you male or female?). Chi-square = 10.18, p < .05

	Male	Female	Totals
very conservative	60.00	40.00	100
conservative	29.41	70.59	100
neutral	43.28	56.72	100
liberal	24.07	75.93	100
very liberal	27.59	72.41	100
Total	34.67	65.33	100

Table B2. Comparison of Question 25 (row: How would you rate your political/social views?) and Question 28 (column: Do you believe the government should set limits on interest rates?). Chi-square = 30.89, p < .01

	No	Yes	Totals
very conservative	42.86	57.14	100
conservative	17.65	82.35	100
neutral	14.93	85.07	100
liberal	1.85	98.15	100
very liberal	6.90	93.10	100
Total	12.56	86.93	100

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Table B3. Comparison of Question 24 (row: With which political party are you registered?) and Question 28 (column: Do you believe the government should set limits on interest rates?). Chi-square = 11.26, $p<.05$

	No	Yes	Totals
Democrat	5.68	94.32	100
Republican	26.19	73.81	100
Independent	10.34	89.66	100
None	15.38	84.62	100
Total	12.56	86.93	100

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