LSC

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Testimony to Indian Affairs Committee, July 15, 2014
High-Cost Storefront Lending in Native American Communities

My name is Jean Philips from New Mexico Legal Aid (NMLA). I thank the chairs and committee for allowing me to speak today. I am here at the request of Senator William Soules, who asked me to testify about the impact of predatory lending on our clients. I have been working as a staff attorney in our office in Gallup, since the beginning of 2010. The Gallup office serves McKinley and Cibola Counties, and the majority of our clients are Navajo and Zuni. Over the past four years working with our client population, I have seen first-hand the devastating impact high-cost loans have on the community we serve, and I thank Senator Soules for inviting me to share some examples of those impacts.

High cost loans, advertised as loans for emergencies, actually create emergencies for many of our clients.

For example, we advised a Native American client who had been evicted from public housing, along with her children, because of nonpayment of rent. Her rent was low, and her employment income was enough to cover it. When we asked about how she had gotten behind on her rent, she reported that several months earlier, she had taken out a payday loan at a triple-digit interest rate to buy school supplies for her children. When she was unable to pay back the payday loan, she took out an installment loan, also at triple-digit interest. When she could not pay back the installment loan, she took out a triple-digit interest title loan, leaving her in a position where default would mean losing the car she used to get to work.

Last year, we met with a disabled, elderly client who lived with her adult children. The company that had financed her mobile home loan was suing for repossession. Together, she and her children had more than sufficient income to cover their monthly mobile home payment, but our client had been putting all of her income toward multiple, unsecured, high cost loans, and nearly lost her home as a result.

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High cost loans are a vehicle for exploitation of elders in our community.

We assisted an elderly, disabled veteran who couldn't afford to fix a gaping hole in the wall of his home through an entire winter, because nearly all of his veteran's benefits were going to service his small loans. After further investigation, it became clear that he had not taken out the loans for himself, but at the behest of someone else who had played on his sympathies. He had taken out the loans years earlier, but since he'd never been able to pay them off, this man, who owned his own home and was entitled to a sizable check every month from the VA, was destitute and living in uninhabitable conditions.

High cost title loans lead to loss of household vehicles, which has serious collateral consequences.

A study done in 2012 found that in 2008, 60% of New Mexicans who took out title loans permanently lost their vehicles because they were unable to pay back the full amount due[1]. One of our clients, a disabled member of the Navajo Nation, took out a title loan for $500. At the time, his only source of income was a monthly benefit that he received because he was too disabled to work. The terms of the loan agreement required our client to pay back the full amount plus a finance charge within 30 days – the total due the following month was 92% of his monthly income. Like many of our clients, this gentleman renewed multiple times, but when he was unable to afford the ongoing finance charges, the lender repossessed and sold his car. He is one of many who have permanently lost their vehicles to title lenders. For this disabled client, this sometimes means hitchhiking long distances from a remote home on the reservation. For some of our clients, it means job loss because of lack of transportation to work, or inability to reach essential medical appointments.

High-cost loans hobble tax programs for low-income people.

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[1] Martin, N. & Adams, O. (2012). "Grand theft auto: Repossession and demographic realities in title lending." *Missouri Law Review.* Available at http://bit.ly/Zl2wSX,

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About 83% of households in McKinley County qualify for the earned-income tax credit, which can be a great way for them to build emergency funds early in the year. However, many of our clients take out "holiday loans" around November, which are based on estimated tax refunds for the following year. By January, they have already signed away large chunks of that money in the form of finance charges and tax preparation fees. Many of those who have taken out holiday loans are then unable to get free help with their taxes from low-income taxpayer clinics, because holiday lenders are holding their social security cards and children's birth certificates as collateral. This practice has other impacts, as well. Recently, I had to write a food pantry referral letter and a letter to the Income Support Division for a pregnant mother who was being forced to skip meals. Her food stamps application was being held up because a holiday lender was holding her 2013 tax return hostage until she made full payment on what it claimed she owed.

Easy access to high interest loans prevents our clients from finding solutions to underlying financial problems.

In 2012, we met with an elderly Navajo client who had worked in 1999 for a hotel that paid less than minimum wage, and she'd struggled at that time to pay for basic needs. Had she come in to Legal Aid in 1999, we could have advised her on her minimum wage rights and assisted her in getting back pay. Instead, to cover basic needs, she took out a loan at about 60% interest at one of the many storefronts scattered through Gallup. As she found herself unable to pay it back, she took out another and another, and renewed the old ones over and over, until she had six loans out. When she met with us, her total monthly bill just for servicing these six loans was higher than her gross monthly income from employment. She was going without basic things like firewood to heat her home. She was also about 10 years too late to complain to the state about her employer violating minimum wage laws. We frequently see clients whom we could have helped solve financial crises years ago – through a wage complaint, advice on returning a

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lemon vehicle, or help pushing through a delayed unemployment insurance application – but who only come to us after years of depriving themselves to service their loans.

High cost loans gut the protections afforded by legal exemptions from garnishment.

Last year, I met with a Zuni client who had 11 separate small loans. At the time she came to see us, she was paying more than $800 per month just to service these loans. This was more than half of her net income from work, meaning that every other biweekly paycheck went exclusively to her loans, plus some of the remaining paycheck. Under New Mexico law, this was far more than the lenders could have collected under wage garnishment orders, but few of our clients know this, and many of them live in terror at the thought of being sued or even thrown in jail. Although we at Legal Aid can help people who seek us out, and although we do preventative community education about the risks of high cost loans, people in our client's situation often suffer for years without the information and self-advocacy tools they need to get out of trouble. As a result, many people, like this client, deprive themselves of basic needs, including by going hungry, to service their loans.

Again, thanks to Senator Soules and to all of you for the invitation to provide input in this important area. I am happy to answer questions if you have any.

Respectfully submitted,

Jean Philips
Staff Attorney

Attached Exhibits:

A: Examples of High-Cost Loan Key Disclosure Sections
B: Gallup Independent Article on NMLA's Preventative Community Education on Holiday Loans
C: Albuquerque Journal Article: "Disparity in Working Poor" by Richard Metcalf, discussing the Earned Income Tax Credit

A

Typical Gallup Storefront Loans

Below are examples of key disclosure sections from the two most common types of storefront loan agreements in Gallup. Although finance charges vary, these are not unusual. They are based on numbers pulled from actual loan agreements of past NMLA clients, with dates changed and identifying information removed. The numbers are also altered for additional confidentiality protection – they have been made slightly more affordable than the actual agreements on which they are based.

INSTALLMENT LOAN AGREEMENT (key disclosures)

ANNUAL PERCENTAGE RATE **The cost of your credit as a yearly rate.**	**FINANCE CHARGE** **The dollar amount the credit will cost you.**	**AMOUNT FINANCED** **Amount of credit provided to you or on your behalf.**	**TOTAL AMOUNT OF PAYMENTS** **The amount you will have paid after you have made all payments as scheduled.**
421.07%	**$608**	**$400**	**$1, 008**

Payment schedule: 6 monthly payments of $168 each,
due on the 1st day of each month starting 12/01/13

Loan Date: November 1, 2013 **Signature: ______________________**

TITLE LOAN AGREEMENT (key disclosures)

ANNUAL PERCENTAGE RATE **The cost of your credit as a yearly rate**	**FINANCE CHARGE** **The dollar amount the credit will cost you**	**AMOUNT FINANCED** **Amount of credit provided to you or on your behalf**	**TOTAL AMOUNT OF PAYMENTS** **The amount you will have paid when all payments are made on time**
300%	**$241.05**	**$1,022**	**$1,277.50**

Security: You are giving a security interest in the above-described motor vehicle.

Payment schedule: 1 payment of $1,277.50 due on December 1, 2013

ITEMIZATION OF AMOUNT FINANCED

$1,000 Amount given to you directly
$0.00 Amount paid on your prior account

Amount paid to others on your behalf:

$5.00 Title recording fee
$17.00 Continental Car Club (optional)*
$1, 022 Amount Financed (Total)

*To the extent permitted by applicable law, we may retain or receive a portion of these amounts.

Loan Date: November 1, 2013 **Signature: ______________________**

NM Legal Aid

THE TRUTH WELL TOLD
Independent
Thursday
November 21, 2013
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GALLUP, NEW MEXICO 87301

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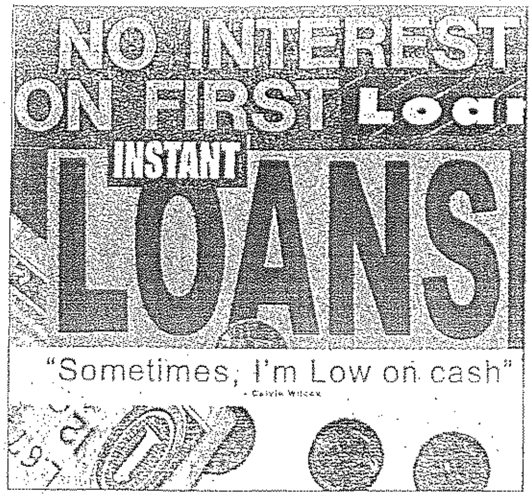


Independent file photo

The tactics of loan companies were the topic of a seminar held by New Mexico Legal Aid Society in Gallup Wednesday.

Seminar focuses on holiday loan risk

By Bill Donovan
Independent correspondent
education@gallupindependent.com

GALLUP — A lot of people in this area who find themselves in a financial pinch seek a solution that just puts them in a "bigger pinch."

That was the message the New Mexico Legal Aid Society presented Wednesday when they held a seminar on the dangers of borrowing money to pay for their holiday expenses.

What many people who come to the Legal Aid Society find out is that it becomes a never-ending cycle, Jen Phillips, the group's representative, said at the meeting.

"You borrow $1,000 and have to pay back $1,200," she said.

But if you can't find $1,000, how are you going to find the $1,200 because you have already spent the $1,000, she said.

So you go somewhere else and borrow $1,200 to pay for the first loan, so you end up owing $1,400 and so on and so on.

One of the main purposes of the seminar was to tell people who came that they should take the time to look over the contract and find out what they are

See Holiday loans, Page 5

Holiday loans

Continued from Page 1

actually paying for that loan.

Too often, she said, a loan officer puts a contract in front of a person who needs the money and they sign without reading the fine print.

Another important lesson she hoped people took from that meeting was the ability to say no and walk away if the company loaning the money seemed not to be on the up and up.

To get that message across, she had people who came to the meeting do a little role playing.

She selected a person from the audience and put them in a seat next to her. She played a loan officer trying to get someone to take a loan higher than they wanted when they came in.

"The reason is that the higher your loan, the more money the loan company makes," she said.

So the pretend loan officer started offering the pretend customer a pretend loan of $100 when they came in only for $70.

The officer put the hard sell on the woman as members of the audience yelled out that she shouldn't trust the loan officer and "to just walk away."

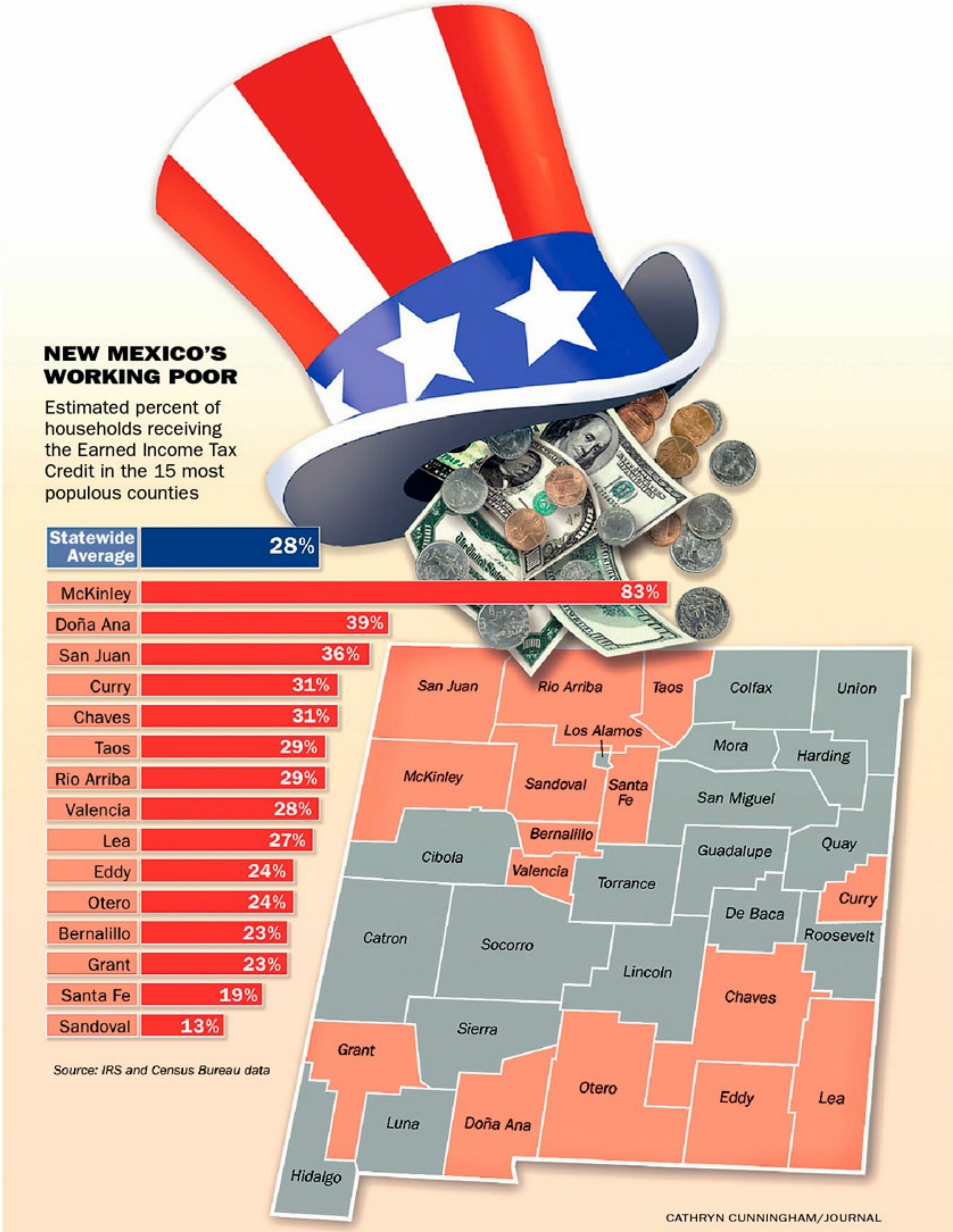
And after a couple of minutes of refusing to accept the offer of more money, the pretend customer just stood up and walked away to the applause of people in the audience.

It was a vivid demonstration of what many people should do, but Phillips pointed out that many people, especially around the holidays when cash becomes short, allow themselves to be taken.

Disparity in working poor

C

Richard Metcalf / Journal Staff
Writer



The working poor make up as much as an estimated 28 percent of New Mexico's households, typically scraping together an existence from part-time jobs, operating their own business on the side and getting whatever government assistance is available to them.

Once a year at tax time, most of these households get a financial windfall from the federal Earned Income Tax Credit, which is available to individuals and families with low-to-moderate income. For the 2011 tax year, 212,556 eligible taxpayers in the state received an average credit of $2,303, according to the IRS.

“Research indicates that families mostly use the EITC to pay for necessities, repair homes, maintain vehicles that are needed to commute to work, and in some cases, obtain additional education and training,” says a report by the Washington, D.C.-based Center on Budget and Policy Priorities.

No place in New Mexico comes close to tapping the Earned Income Tax Credit like hardscrabble McKinley County, where as many as 83 percent of the households received the tax credit for the 2011 tax year.

The Internal Revenue Services reported 14,307 taxpayers in McKinley got an average credit of $2,577 for the 2011 tax year. The county has 17,263 households, according to the Census Bureau. The 83 percent estimate should be considered the maximum, since there inevitably were households with more than one member filing a return for the credit.

The Earned Income Tax Credit is tailored to provide the most benefit to working families with children, based on the obvious rationale that raising children in poverty is not good for the child or society as a whole.

McKinley has a substantially higher under-18 population, at 32 percent, than the statewide average of 25 percent.

There’s a lot of intergenerational blending of families – grandparents raising grandkids, aunts and uncles raising a niece or nephew plus their own children – that can stress household finances, said Debbie Klein, co-owner of the Liberty Tax office in Tse Bonito, near the boundary of the Navajo Reservation.

The county’s official labor force is the same size it was in 2003 and the 8.3 percent unemployment rate was fourth highest in the state in December. Many of the available jobs are temporary – for the duration of a given project, for example – or require the cost of traveling long distances, she said.

“Putting 35,000-40,000 miles on your car in a year is nothing,” she said.

Self-employment is common in McKinley County, Klein said, citing as an example the vendors lining the north side of Highway 264 as one drives into Window Rock. “I find that very creative,” she said. “They think, ‘If I can’t find a job, I’ll make one for myself.’”

The eligibility requirements of the Earned Income Tax Credit are what unofficially define it as for the working poor. The taxable earned income primarily means wages and tips received as an employee or net earnings from self-employment.

The credit does not apply to income from unemployment benefits or alimony and child support. It also is not available for what could be described as retirement income, such as Social Security, interest and dividends.

The annual income limits for the 2012 tax year range from a low of $13,980 for an individual taxpayer with no children to a high of $50,270 for a couple filing a joint return with three or more qualifying children. Investment income is allowed, but is limited to a maximum of $3,200 for the year.

While McKinley County is in a class by itself for taxpayers getting the EITC, sparsely populated Luna and Guadalupe counties had up to 45 percent and 40 percent, respectively, of their households getting the credit for the 2011 tax year

The county with the fourth-highest rate of tax-credit recipients was Doña Ana County at up to 39 percent of households. Doña Ana, which is home to the Las Cruces metro area, has a median household income of $41,118 a year, which is just 7 percent higher than McKinley’s median of $38,520, according to HUD median income tables for 2012.

More tellingly, Doña Ana’s median household income is 30 percent and more below that of New Mexico’s other three counties with officially designated metro areas – Santa Fe at $60,594, Bernalillo at $58,082 and San Juan at $53,457

At the other end of the spectrum, Los Alamos County had the lowest rate of tax-credit recipients with about 5 percent of its households for the 2011 tax year. Los Alamos’ median household income is $117,453 a year.

Other counties with low rates of tax-credit recipients were Sandoval at up to 12.8 percent, Catron at 13.6 percent and Harding at 17 percent.

In Bernalillo County, up to 23 percent of all households qualified for the Earned Income Tax Credit in the 2011 tax year, equal to the 23 percent average nationwide. Bernalillo’s average credit was $2,160.

An IRS breakdown by ZIP code shows tax-credit recipients were concentrated in three areas of Bernalillo County:

◊ By far the largest concentration, more than 17,100 taxpayers, is in the Southwest Mesa and South Valley (87105 and 87121 ZIP codes).

◊ The second-largest concentration, close to 8,400 taxpayers, incorporates much of the Southeast Heights and a sliver of the Northeast Heights south of Lomas and east of Carlisle (87108 and 87123 ZIP codes).

◊ Just behind with about 8,200 taxpayers were the Northwest Mesa and Far Northwest Mesa in Albuquerque (87114 and 87120 ZIP codes).

Since 1996 , workers in the U.S. illegally have been ineligible for the refundable portion of the tax credit as a Social Security number is required. But many have gotten a refundable child credit as Congress did not enact the Social Security requirement when that credit was created.