

### **Resolution on Predatory Lending in South Dakota**

**SOURCE: Bear Butte Conference, Crossroads Conference, Hunger Task Force**

*NOTE: the Resolutions Committee revised the order of the “whereases” in this resolution in order to bring the three separate resolutions into harmony with each other.*

**Whereas** Scripture, Martin Luther’s writings, and the principles found in Lutheran ethical teaching expressed in our ELCA social statements warn about gaining wealth through exploiting the poor and direct us as Christians in society to advocate on behalf of the poor, the powerless, and those who suffer,<sup>3</sup> and effectively address the causes of poverty;<sup>4</sup> and

**Whereas** the US Congress, at the request of the US Department of Defense, limited the interest rate on loans to active-duty military members and their families to 36% APR; and fourteen states and the District of Columbia have enacted strong state laws that effectively enforce a rate cap of 36% APR or less,<sup>2</sup> as part of a nation-wide effort to reform predatory lending practices; and

**Whereas**, many high-cost small-dollar lenders engage in predatory practices, charging annualized percentage rates (APR) on loans in excess of 300%, with payday loans averaging 574% APR in South Dakota,<sup>1</sup> causing significant harm to the economic wellbeing of some of the most financially vulnerable South Dakotans, ensnaring borrowers in a debt trap that can last for months or years,<sup>2</sup> which reinforces a cycle of poverty, and frequently leaving borrowers less able to provide for themselves the necessities of food, shelter, and medical care; therefore be it

**Resolved** that the South Dakota Synod ELCA call on our members to learn about predatory lending practices; and be it

**Resolved** that we condemn as usurious\* any interest rate that exceeds 36% APR; and be it

**Resolved** that congregations of the South Dakota Synod, ELCA be encouraged and empowered to become trusted sources of information on the two 2016 South Dakota state ballot measures related to predatory lending; to advocate support of Initiated Measure 21 which puts a 36% APR limit on payday loans, car title loans, and installment loans;<sup>5</sup> and to oppose adoption of Amendment U which changes the State Constitution to allow unlimited interest and fees on these loans;<sup>5</sup> and be it further

**Resolved** that the South Dakota Synod, ELCA direct Bishop David Zellmer to communicate this resolution to the Governor and members of the State Legislature, and to advocate to the South Dakota voting public on behalf of these actions.

\*Usury = Unconscionably high interest rates

## Background Information

The short-term high-interest loan companies prey upon the most vulnerable people, those with low-incomes, the elderly, families with children, veterans, and others living on fixed incomes, making loans in a business model that traps many borrowers in a cycle of debt.<sup>6</sup> Borrowers often take out loan after loan just to pay the high interest on their original loan.<sup>7</sup>

In South Dakota, high-cost small-dollar loans have an APR in excess of 300%, with payday loans averaging 574% APR.<sup>1</sup> They extract over \$34 million a year from South Dakotans in payday loan fees.<sup>2</sup> Over 80% of payday loans are rolled over or followed by another loan within 14 days.<sup>7</sup> Payday lenders generate 75% of their fees from those borrowers who are stuck in more than 10 loans a year.<sup>7</sup>

It is clear from Scripture that God calls us to love others, and not just love them nominally or marginally, but to love them as we love ourselves (Matthew 22:39). Beyond loving all, we are particularly asked to act to protect those that are poor and vulnerable (Proverbs 22:22, 1 John 3:18).

*“If your brother becomes poor and cannot maintain himself with you, you shall support him as though he were a stranger and a sojourner; and he shall live with you. Take no interest from him or profit, but fear your God, that your brother may live beside you. You shall not lend him your money at interest, nor give him your food for profit.”* (Leviticus 25:35-37) (see also, eg. Exodus 22:25-27, Isaiah 3:14-15, Nehemiah 5:1-13, Ezekiel 18:5-9, 22:12)

Martin Luther himself railed against usurers as “tyrants and robbers.”<sup>8</sup> He wrote, “But a usurer and miser-belly desires that the whole world be ruined in order that there be hunger, thirst, misery, and need so that he can have everything and so that everyone must depend up him and be his slave as if he were God.”<sup>9</sup> In his 1524 treatise, On Trading and Usury, Luther wrote, “There are some who not only deal in little sums, but also take too much return – seven, eight, nine, ten percent. The rulers ought to look into this. Here the poor common people are secretly imposed upon and severely oppressed.”<sup>8</sup>

According to a comprehensive report on payday lending conducted by the Department of Defense, “The debt trap is the rule not the exception: the average borrower pays back \$864 for a \$339 loan.” Payday loans were so harmful to the finances and military readiness of our service members that Congress established a 36% Annual Percentage Rate (APR) rate cap for military families.<sup>10</sup>

In South Dakota this industry has succeeded in putting a proposed Constitutional Amendment U on the state’s November ballot that appears it is capping their loans at 18% but with a loophole (it has no limits whatever on written agreements.)<sup>5</sup> in order to keep these companies in the business of high-interest lending in South Dakota.

Without these predatory lending businesses, people in need have other options; they will turn to other sources of assistance sooner, rather than after they are weighed down with exorbitant and impossible debt.<sup>11</sup>

## Sources

<sup>1</sup>Pew Charitable Trusts, “How State Rate Limits Affect Prices,” showing that the average Annual Percentage Rate charged in South Dakota is 574%, [http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs/content-level\\_pages/fact\\_sheets/stateratelimitsfactsheetpdf.pdf](http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs/content-level_pages/fact_sheets/stateratelimitsfactsheetpdf.pdf)

<sup>2</sup>Center for Responsible Lending, “2013 State of Lending Report: Payday Lending Abuses and Predatory Practices,” <http://www.responsiblelending.org/state-of-lending/reports/10-Payday-Loans.pdf>

<sup>3</sup>ELCA Social Statement, The Church in Society; a Lutheran Perspective

<sup>4</sup>ELCA Social Statement, Sufficient, Sustainable Livelihood for All

<sup>5</sup> Ballot information, South Dakota Secretary of State and South Dakota Attorney General

<sup>6</sup> See for example, the following reports: Debt.org, “What is predatory lending” <https://www.debt.org/credit/predatory-lending/>; UNLV School of Environmental and Public Affairs, “Brief of Veteran Study Survey,” Feb. 2015, [http://stopthedebttrap.org/wp-content/uploads/2015/08/oa\\_veterans\\_neb1\\_30\\_4february2015.pdf](http://stopthedebttrap.org/wp-content/uploads/2015/08/oa_veterans_neb1_30_4february2015.pdf); Arizona Children’s Action Alliance, “Sky High Fees Of Payday Loans Hurt Arizona Families and Communities,” <http://www.azchildren.org/MyFiles/PDF/PaydayLoanFactSheet.pdf>

<sup>7</sup> Consumer Financial Protection Bureau, “CFPB Data Point: Payday Lending,” March 2014, [http://files.consumerfinance.gov/f/201403\\_cfpb\\_report\\_payday-lending.pdf](http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf)

<sup>8</sup>*On Trading and Usury*, 1524, Martin Luther, “Works of Martin Luther” (Philadelphia: A.J. Holman Company, 1915, vol. 4)

<sup>9</sup>Luther’s Struggle with Social-Ethical Issues, Carter Lindberg, in *The Cambridge Companion to Martin Luther*, ed. Donald K. McKim, Cambridge University Press, 2003

<sup>10</sup> U.S. Department of Defense, “Department of Defense Issues Final Military Lending Act Rule,” July 21, 2015, <http://www.defense.gov/News/News-Releases/News-Release-View/Article/612795/department-of-defense-issues-final-military-lending-act-rule>

<sup>11</sup>Pew Charitable Trust, “Who Borrows, Where They Borrow, and Why,” <http://www.pewtrusts.org/en/multimedia/data-visualizations/2012/payday-lending-in-america>

## **Voices of South Dakotans**

People in South Dakota who are struggling with debt said:

*“I borrowed \$400 for tires. I think I paid \$400 about 4 different times. It seemed like forever to get that dumb thing paid off!”*

*“I borrowed \$1700. I’ve been paying \$200 a month for two years. They just told me I still owe \$1100.”*

*“I took out an auto title loan on my van for \$450. My payment schedule is \$135 a month for two years.”*

*“They keep you borrowing more.”* – Man who owed \$550 on a \$200 loan he took out a few months before.

*“It took my whole childhood for my mom to pay off her loan. And, we were hungry.”*  
– Young adult man

*“These loans are horrible. Many people end up getting evicted or utilities cut off trying to keep up. Then they can’t afford to buy food, but your paycheck may be too much for food stamps. They don’t want to lose their car to get to work, which is why they took out the loan in the first place.”* – Caseworker at a helping agency

*“[One loan client] was not going to be able to buy her medicine anymore. I couldn’t stand it any longer. I quit the next day.”* – Former employee at a payday loan business