HOUSE MEMORIAL 25

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

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A MEMORIAL

REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO APPOINT AN INTERIM CONSUMER LENDING TASK FORCE TO STUDY HIGH-COST LENDING IN NEW MEXICO AND REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE NEW MEXICO LEGISLATIVE COUNCIL.

WHEREAS, data collected by the financial institutions division of the regulation and licensing department indicates there are currently over six hundred small loan lenders in New Mexico licensed pursuant to the New Mexico Small Loan Act of 1955 offering short-term and long-term loans to consumers; and

WHEREAS, data collected by the financial institutions division in 2012 indicates the interest rates of small loans offered in New Mexico average an annual percentage rate of five hundred thirty-three percent and may exceed three thousand percent; and

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WHEREAS, consumer loans currently being made by companies in New Mexico and on-line lenders to residents of New Mexico include payday loans, installment loans, car title loans and tax refund anticipation loans; and

WHEREAS, the 2009 federal deposit insurance corporation national survey of unbanked and under-banked households defines "unbanked" households as those without a checking or savings account at a federally insured depository institution and "under-banked" households as those with a checking or savings account but who have made use of alternative financial services such as payday lenders or other small loan lenders; and

WHEREAS, the 2009 federal deposit insurance corporation national survey of unbanked and under-banked households reports that eleven and four-tenths percent of New Mexico households are unbanked and that thirteen and four-tenths percent of Hispanic households and twenty-nine and three-tenths percent of "other" households, including Native American households, are unbanked; and

WHEREAS, the 2009 federal deposit insurance corporation national survey of unbanked and under-banked households reports that twenty-one and seven-tenths percent of all New Mexico households are under-banked and that twenty-seven and two-tenths percent of Hispanic households and twenty-nine percent of "other" households, including Native American households, are under-banked; and
WHEREAS, unbanked and under-banked households often lack access to traditional forms of credit; and

WHEREAS, sustainable loan terms, including responsible underwriting standards, that take into consideration a borrower's income and other debt obligations are in the best interest of New Mexico's economy; and

WHEREAS, the New Mexico legislature in 2007 enacted statutory reforms to regulate payday loans to address, among other things, the high cost of small loans, the frequency of rollovers and recurring cycles of debt; and

WHEREAS, since 2007 some small loan lenders have revised their loans and business practices to circumvent and avoid the consumer protections enacted in the payday loan reform; and

WHEREAS, New Mexicans continue to be trapped in recurring cycles of debt with loans with high interest rates and are often exploited by exorbitant charges; and

WHEREAS, it is in the best interest of New Mexico to assure reasonable access to affordable credit for all New Mexico consumers;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that the New Mexico legislative council be requested to create an interim consumer lending task force to study the consumer lending industry in New Mexico and in other states, evaluate the conditions and practices used by small loan lenders in New Mexico and in other
states, consider best practices of small loan lenders and the
interests of New Mexico consumers and borrowers and report back
to the legislature its recommendations; and

BE IT FURTHER RESOLVED that the president pro tempore of
the senate and the speaker of the house of representatives, in
consultation with the consumer protection division of the
office of the attorney general, appoint three members of the
house of representatives and three members of the senate, two
representatives of the attorney general, two representatives of
the financial institutions division of the regulation and
licensing department, three representatives from the small loan
lending industry, three representatives of consumer advocacy
groups or organizations and three representatives of members of
the public to serve on the task force; and

BE IT FURTHER RESOLVED that the task force report its
findings and recommendations, including any proposed
legislation, to the appropriate interim legislative committee
no later than December 1, 2013; and

BE IT FURTHER RESOLVED that copies of this memorial be
transmitted to the president pro tempore of the senate, the
speaker of the house of representatives, the attorney general,
the director of the consumer protection division of the office
of the attorney general, the director of the financial
institutions division of the regulation and licensing
department and the director of the legislative council service.