

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 08/27/14
ITEM FROM FINANCE COMMITTEE MEETING OF 08/18/14

ISSUE:

19. Request for Approval of a Resolution Calling on the Governor, the Legislature, the Attorney General and the Regulation and Licensing Department to Take Immediate Action, within their Respective Powers, to Cap Interest and Fees on Non-Bank Lending Institutions in New Mexico. (Councilor Ives, Mayor Gonzales, Councilors Maestas and Bushee) (Melissa Byers)

Committee Review:

City Council (scheduled)

08/27/14

Fiscal Impact – No

FINANCE COMMITTEE ACTION: APPROVED AS CONSENT ITEM

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

Add Councilor Rivera as co-sponsor.

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	Chair		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ	Absent to Vote		

3-17-14

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2014-____ High Interest Loans Cap

SPONSOR(S): Councilor Ives, Mayor Gonzales, Councilors Maestas, Bushee and Rivera

SUMMARY: The proposed resolution calls on the Governor, the legislature, the Attorney General and the Regulation and Licensing Department to take immediate action, within their respective powers, to cap interest and fees on non-bank lending institutions in New Mexico.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: No

DATE: August 21, 2014

ATTACHMENTS: Resolution
FIR

1 local businesses and reducing jobs in local economies; and

2 **WHEREAS**, the Governing Body of the City of Santa Fe desires that consumers utilize
3 credit that does not result in permanent financial damage to borrowers, their families and the
4 community, and desires to accomplish this in a manner that simplifies regulation and allows lending
5 businesses that benefit our community maximum flexibility to conduct business as they choose; and

6 **WHEREAS**, the victims of high interest loans are primarily the poor, single moms, veterans,
7 and the elderly, and these borrowers are seldom adequately vetted for ability to repay; and

8 **WHEREAS**, the US Department of Defense has determined that high cost lending puts
9 dangerous stresses on the families of active military personnel and harms military readiness, and is in
10 the process of expanding its 36% rate cap on short term loans to cover all categories of loans; and

11 **WHEREAS**, 18 states have implemented interest rate caps ranging from 17% to 36% and
12 have not reported any decreases in available credit; and

13 **WHEREAS**, Pew Charitable Trust surveys indicate that borrowers who lose access to
14 expensive credit as a result of interest rate caps are more than able to compensate through reduced
15 debt costs and cutting back on expenses; and

16 **WHEREAS**, measures other than across the board interest rate caps have proven ineffective
17 at limiting lending abuses because lenders modify their products to evade the law; and

18 **WHEREAS**, two recent polls show 86% of New Mexicans support interest rate caps of 36%
19 or less; and

20 **WHEREAS**, New Mexico Department of Regulation and Licensing statistics show
21 consumers were charged \$99 million in interest and fees on 175% APR and higher small loans in
22 2012, and the amount of additional fees charged for loans between 40% and 175% APR is unknown;
23 and

24 **WHEREAS**, the number of high interest small loan licensees in New Mexico has grown
25 from 582 at the end of 2011 to 656 at the end of 2013; and

1 **WHEREAS**, the Federal Consumer Financial Protection Bureau has no authority to regulate
2 interest rates.

3 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
4 **CITY OF SANTA FE** that the Governing Body calls on the New Mexico Legislature and the
5 Governor to stop the high cost lending epidemic by enacting inflation indexed interest and fee caps of
6 36% or less across all loan products offered by small loan companies and non-chartered lenders.

7 **BE IT FURTHER RESOLVED** that the Governing Body hereby urges the New Mexico
8 Attorney General and the Secretary of the New Mexico Regulation and Licensing Department to
9 exercise their full rule making powers under the Unfair Trade Practices Act and the Small Loan Act
10 to end high cost lending abuses.

11 **BE IT FURTHER RESOLVED** that the City Clerk is directed to send a copy of this
12 resolution to the Governor, the Speaker of the New Mexico House of Representatives, the President
13 Pro Tempore of the New Mexico Senate, the City's State Legislative Delegation, the New Mexico
14 Attorney General, the Secretary of the New Mexico Regulation and Licensing Department and the
15 City's lobbyist.

16 PASSED, APPROVED, and ADOPTED this ____ day of _____, 2014.

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18 _____
19 JAVIER M. GONZALES, MAYOR

20 ATTEST:

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22 _____
23 YOLANDA Y. VIGIL, CITY CLERK
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1 APPROVED AS TO FORM:

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KELLEY A. BRENNAN, CITY ATTORNEY

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M/Melissa/Resolutions 2014/Payday Loans Interest Cap

Sources:

1. **New Mexico Regulation and Licensing Department Website Published Data**
<http://www.rld.state.nm.us/financialinstitutions/>
2. **Consumer Financial Protection Bureau (CFPB) Finds Four Out Of Five Payday Loans Are Rolled Over Or Renewed**
http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf
3. **Department of Defense Report on Predatory Lending Practices**
http://www.defense.gov/pubs/pdfs/report_to_congress_final.pdf
4. **Louisiana Budget Project**
<http://www.labudget.org/lbp/wp-content/uploads/2011/07/Payday-Lenders.pdf>

(Excerpt below)

In 2006, North Carolina banned payday lending entirely. According to a consumer survey (Conducted by the PEW Charitable Trust), most former borrowers reported that the ban had a positive effect on their personal finances, indicating they had the means to handle financial crises without access to payday loans.

5. **State of Lending Report 2013**
<http://www.responsiblelending.org/state-of-lending/State-of-Lending-report-1.pdf>
6. **Interest Rate Caps, State Legislation, and Public Opinion: Does the law Reflect the Public's Desires? Timothy E. Goldsmith* and Nathalie Martin****
<http://scholarship.kentlaw.iit.edu/cgi/viewcontent.cgi?article=3992&context=cklawreview>
7. **Public Policy Polling, Jan 21-22, 2014, survey of 601 New Mexico Voters.**
8. **Believe it or not outlawing payday loans will not lead to looting and pillaging**
<http://consumerist.com/2014/04/06/believe-it-or-not-outlawing-payday-loans-will-not-lead-to-looting-pillaging/>

(Excerpts below)

The Consumer Financial Protection Bureau found that in 2011 the U.S. economy took a net loss of \$774 million due to the payday loan industry. *"The economic activity generated by payday lending firms receiving interest payments is less than the lost economic activity from reduced household spending. Specifically, each dollar in interest paid subtracts \$1.94 from the economy through reduced household spending while only adding \$1.70 to the economy through spending by payday lending establishments."* (Payday loans are less than 15% of the high interest loans in NM)

(Regarding creation of affordable loan products) New York offers two products. The Credit Builder Loan for low-income borrowers with little or no credit, and a Score Builder Loan for those with low credit scores. Both options have a 14.25% interest rate and no fees

* Timothy Goldsmith is a research psychologist in the Department of Psychology, University of New Mexico.

** Frederick M. Hart Chair in Consumer and Clinical Law, University of New Mexico School of Law. The author thanks the University of New Mexico School of Law for its financial support, Brian Parrish, Ernesto Longa, Sherri Thomas, and Jennifer Laws for their superb research assistance, and Frederick M. Hart, Jim Hawkins, and Jason Arvisu for their helpful editorial assistance. This paper was written in connection with a panel entitled *Aberrant Contracts*, at the 2013 AALS Meeting in Washington, D.C.

for a six-month loan. In North Carolina, the State Employee Credit Union offers a Salary Advance of up to \$500 at 12% APR with no fees. The loan must be paid back in full by automatic payments on the next payday. Borrowers in Connecticut can find help in the form of personal loans from the First New England Federal Credit Union. The loans feature APRs between 10.25% and 17.99% depending on a borrower's credit score.

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: X

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): A RESOLUTION CALLING ON THE GOVERNOR, THE LEGISLATURE, THE ATTORNEY GENERAL AND THE REGULATION AND LICENSING DEPARTMENT TO TAKE IMMEDIATE ACTION, WITHIN THEIR RESPECTIVE POWERS, TO CAP INTEREST AND FEES ON NON-BANK LENDING INSTITUTIONS IN NEW MEXICO.

Sponsor(s): Councilor Ives, Mayor Gonzales, Councilors Maestas, Bushee and Rivera

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Rebecca Seligman Date: 08/05/14 Phone: 955- 6622

Reviewed by City Attorney: Kelly A. Blumman Date: 8/12/14
(Signature)

Reviewed by Finance Director: Doreita Guan Date: 8/14/14
 Assistant (Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The purpose of this resolution is to call on the Governor, Legislature, the Attorney General and Regulation and Licensing Department, within their respective powers, to take immediate action to cap interest and fees on non-bank lending institutions in New Mexico.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: [Signature]

X Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY 2014	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Total:	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	

_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ _____	_____	\$ _____	_____	_____	_____

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

None

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

No

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

The Governor, Legislature, Attorney General and Secretary of Regulation and Licensing would not be aware of the Governing Body's concerns about high interest loans.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

By adopting the resolution, the Governing Body calls on the Governor, Legislature, the Attorney General and the Regulation and Licensing Department to, within their respective power, cap interest and fees on non-bank lending institutions. Because of such current high interest rates, through the support of the Governing Body, potential legislative action would be supported to lower interest rates on non-bank lending institutions. If this is accomplished, it would have a direct impact on many borrowers in our community.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08