

RESOLUTION OF THE
NAABIK'ÍYÁTI' STANDING COMMITTEE
24th NAVAJO NATION COUNCIL -- Second Year, 2020

AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE OF THE NAVAJO NATION COUNCIL; SUPPORTING EFFORTS TO REDUCE THE SMALL LOAN ANNUAL PERCENTAGE RATE FROM 175% TO 36% AND REQUESTING THE NEW MEXICO LEGISLATURE TO ADOPT THE 36% ANNUAL PERCENTAGE RATE

WHEREAS:

- A. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 700. The Committee is empowered to coordinate with all federal and state programs with the other standing committees for the purpose of providing the most efficient delivery of services to the Navajo Nation. 2 N.N.C. § 701 (A) (4).
- B. In 2017, the New Mexico legislature passed HB 347 that capped the interest rate on small loans to 175% APR (annual percentage rate). This was the first across-the-board interest rate cap in New Mexico in nearly three decades. While the reduction is commendable, there is tremendous work that still needs to be achieved because New Mexico has one the highest state APR caps in the United States. According to the National Consumer Law Center, based on data collected in February 2020, New Mexico has the third highest interest rate cap for a \$500 six-month loan and has the highest interest rate for a \$2,000 two-year loan.
- C. The data collected from the National Consumer Law Center showed for a \$500 six-month loan, the average interest rate among forty-five states is 38.5% APR. For a \$2,000 two-year loan, the average interest rate among forty-two states is 31% APR. While 38.5% and 31% APR is still high for an average consumer, these rates are better than the current 175% APR in New Mexico.
- D. Approximately 65% of loan companies in New Mexico are located within 15 miles of indigenous lands. There is approximately one lender for every 500 people in Gallup. There are 595 high-cost loan companies licensed to do business in New Mexico.

Indigenous persons often do not seek clarification to better understand the terms of the small loan, and storefront small loan lenders are often the only entity that will provide a small loan to them. Small loan businesses do not provide sufficient amount of information regarding the costs and terms of loans to indigenous consumers, especially those that have difficulty understanding the English language, to make an informed decision.


- E. While there is an outcry from small loan businesses in New Mexico that they cannot make a profit off of a 36% APR, the United States Congress passed the 2006 Military Lending Act that requires active duty service members and their spouses, children, and certain other dependents to be provided no more than 36% APR on small loans. Twenty-one states have APR caps of 36% or less on \$500 loans, and thirty-three states have APR caps of 36% or less on \$2000 loans; however, these storefront small loan businesses are still in operation. It is uncalled for that these small loan lenders take advantage of Navajo consumers without meaningful and clear disclosure of the annual percentage rate and amount of money they would have to repay.
- F. By Resolution NNHRCJULY-09-20, the Navajo Nation Human Rights Commission supported the reduction of the small loan interest rate from the current 175% APR to 36% APR. See attached **Exhibit A**. The Commission further finds it is in the best interest of Navajo Nation and Navajo consumers to reduce the annual percentage rate of small loans in New Mexico from the current 175% to 36%. The New Mexico Legislature should follow the United States Congress with the 2006 Military Lending Act, but instead of applying it to only active duty service members and their spouses, children, and certain other dependents, it should be applied to everyone who borrows from a small loan lender in New Mexico.

NOW THEREFORE BE IT RESOLVED:

The Navajo Nation hereby supports the efforts to reduce the small loan interest rate from 175% APR to 36% APR and requests the New Mexico Legislature to adopt the 36% APR during the 2021 legislative session.

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 19 in Favor, and 00 Opposed, on this 3rd day of September 2020.


Honorable Seth Damon, Chairman
Naabik'íyáti' Committee

Sept 8, 2020
Date

Motion: Honorable Mark A. Freeland

Second: Honorable Nathaniel Brown

Chairman Seth Damon not voting

**RESOLUTION OF THE
NAVAJO NATION HUMAN RIGHTS COMMISSION**



**Supporting the Reduction of the Annual Percentage Rate from 175% to 36% for Small
Loans in the State of New Mexico**

WHEREAS:

1. Pursuant to 2 N.N.C. §§ 920 and 921, the Navajo Nation Human Rights Commission (herein referred to as "Commission") is established in the Legislative Branch as an entity of the Navajo Nation government and organized to operate as a clearinghouse entity to administratively address discriminatory actions against citizens of the Navajo Nation; and to interface with the local, state, federal governments, and with national and international human rights organizations in accordance with the Commission's plan of operation (Navajo Nation Council Resolution CJN-15-08) and applicable laws and regulations of the Navajo Nation; and
2. The Commission has been interfacing with other human and civil rights organizations in New Mexico in order to reduce the annual percentage rate ("APR") for small loans from what many people consider unconscionable levels of 500%, 400%, 300% to 175% APR. The New Mexico legislatures passed legislation in 2017 during the legislative session to reduce the APR to 175%. The new APR went into effective in January 2018; and
3. The Commission passed several resolutions supporting the reduction of the APR on small loans in New Mexico. The Commission passed Resolutions NNHRCJAN-06-15, NNHRCJAN-03-16, NNHRCAPRIL-13-18 and NNHRCFEB-20-19. These resolutions sought to have the New Mexico legislatures protect the financial and social welfare of those who utilize the small loans in New Mexico by reducing the APR of the small loans; and
4. In 2017, the New Mexico legislature passed HB 374 that capped APR on small loans to 175%. While the reduction is commendable, there is tremendous work that still needs to be achieved because New Mexico has one of the highest APR in the United States. According to the National Consumer Law Center, based on data collected in February 2020, New Mexico has the third highest interest rate for a \$500 six-month loan and has the highest interest rate for a \$2,000 two-year loan; and
5. The data collected from the National Consumer Law Center showed for a \$500 six-month loan, the average interest rate among forty-five states is 38.5%. For a \$2,000 two-year loan, the average interest rate among forty-two states is 31%. While 38.5% and 31% annual percentage rates are still high for an average consumer, these rates are better than the current 175% APR in New Mexico; and
6. Evidence indicates that storefront small loan lenders cluster near indigenous lands because the belief is an indigenous person is often not eligible for a conventional bank loan, they often do not seek clarification to better understand the terms of the small loan, and storefront small loan lenders are often the only entity that will provide a small loan to them. Small loan businesses do not provide sufficient amount of information to indigenous

NAVAJO NATION

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9/3/2020

Navajo Nation Naabikiyati Special Meeting

07:13:08 PM

Amd# to Amd#	Legislation 0169-20: Supporting	PASSED
MOT Freeland, M	Efforts to Reduce the Small	
SEC Brown	Loans Annual Percentage Rate...	

Yeas : 19 Nays : 0 Excused : 0 Not Voting : 4

Yea : 19

Begay, K	Freeland, M	Smith	Tso, O
Begay, P	Halona, P	Stewart, W	Walker, T
Brown	James, V	Tso, C	Wauneka, E
Charles-Newton	Nez, R	Tso, D	Yazzie
Daniels	Slater, C	Tso, E	

Nay : 0

Excused : 0

Not Voting : 4

Yellowhair	Henio, J	Crotty	Begay, E
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Presiding Speaker: Damon