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## FISCAL IMPACT REPORT

SPONSOR Martinez, J ORIGINAL DATE 1/25/17  
LAST UPDATED 2/20/17 HB 100  
SHORT TITLE Short Term Loan Positive Credit Reporting SB \_\_\_\_\_  
ANALYST Downs

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to House Bill 26, House Bill 347, House Bill 368, House Bill 438, House Bill 480, Senate Bill 15, Senate Bill 398, and Senate Bill 414.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
Public Regulation Commission (PRC)  
Regulation and Licensing Division (RLD)

### SUMMARY

#### Synopsis of Bill

House Bill 100 amends the New Mexico Bank Installment Loan Act, the New Mexico Small Loan Act, and the Motor Vehicle Sales Finance Act, to require lenders to report consumer's positive credit to a nationwide consumer reporting agency. Positive credit is defined by House Bill 100 to mean financial records solely relating to the existence of the borrower's loan and the timely performance of the borrower in making payments on the loan.

### FISCAL IMPLICATIONS

No agencies have reported a fiscal impact as a result of the passage of House Bill 100. Any cost will be on the lenders and other corporations, which will need to adjust practices to comply with the new reporting standards.

## **SIGNIFICANT ISSUES**

According to the AGO, lenders are not currently required to report loan performance to credit reporting agencies, though lenders extending more substantial financing options such as mortgages and credit cards, typically report payment performance to one of the three large credit bureaus. Conversely, smaller lenders, such as payday or installment loan lenders, rarely or never report credit performance. As a result, consumers who utilize these financing options do not have their positive performance reported and are unable to improve their credit ratings. Consumers with lower credit scores as a result of the non-reporting of small loan performance cannot access credit options which require higher credit ratings. House Bill 100 seeks to address the cycle of poor credit which prevents consumers from accessing more favorable financing options.

## **TECHNICAL ISSUES**

The Regulation and Licensing Division stated that page 5, lines 2 through 4, of House Bill 100 restricts credit reporting on loans made under the Small Loans Act to payday loan products. Licensees making other loan products under the Small Loans Act would not be required to report a loan transaction and borrower payments made to a credit reporting agency.

According to RLD, the way the definition of positive credit is currently worded allows room for potential confusion as to whether lenders who are reporting on a borrower's payment history are required to only report "timely performance" (i.e. "only payments made on time") or if they are required to report on "all" payments made by a borrower. The bill seems to emphasize that only "positive credit" should be reported, and thereby a perception could result that lenders are not to report potentially "negative" information, such as late or missed payments. Pursuant to the Fair Credit Reporting Act, federal law indicates accurate reporting must be made by lenders when reporting on borrowers, which implies the need to report on "all" payments made (or not made) by a borrower if reporting on "any" payments made by a borrower.

## **RELATIONSHIPS AND CONFLICTS**

The following bills relate to HB 100 through the amendments to the New Mexico Small Loan Act and the New Mexico Bank Installment Loan Act:

"Small Loan Interest Rate Caps", SB 15 and HB 26, effectively cap the Annual Percentage Rate to 36% applicable to all loans.

HB 347, "Installment Loan Fee Limits & Literacy Fund", limits fees and charges for certain installment loans and providing for reporting to credit agencies on all loan performance. HB 347 substitutes a fee-based financing structure for all small loans under \$5,000; eliminates payday loans; and exempts refund anticipation loans from its coverage. HB 347 outlines a monthly handling fee capped at 7 ¾% percent.

"Small Loan Act Requirements", HB 368 and SB 398 shift the reporting on transactions to a more comprehensive annual reporting by loan product. These bills require the licensees to produce an annual report to FID no later than March 31<sup>st</sup>. Failure to report to FID on time will result in suspension of license and a fine of \$1,500 per day until the report is filed. HB 368 and SB 398 have a unique conflict with HB 347. HB 368 requires

each SLA licensee to report the total dollar amount of “interest”. HB 347 refers to a capped monthly “handling fee” at 7 ¾%. If both bills were to pass as written, licensees would be required to report the proposed “processing fee” and may be exempt from reporting the proposed “handling fee”.

“Disclosure of Tax Refund Loan Fees”, HB 438 and SB 414, requires disclosures of fees and interest associated with tax refund anticipation loans. This legislation establishes requirements, permitted charges and prohibited acts for tax refund anticipation loans.

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