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SENATE MEMORIAL 12

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

INTRODUCED BY

Elizabeth "Liz" Stefanics

A MEMORIAL

REQUESTING THE ATTORNEY GENERAL TO ANALYZE THE GENERAL COMPLIANCE WITH THE NOTIFICATION REQUIREMENTS OF THE DATA BREACH NOTIFICATION ACT STEMMING FROM THE 2017 EQUIFAX DATA BREACH AND THE METHODS USED BY SOME STATES TO ELIMINATE CHARGES TO INDIVIDUAL CONSUMERS SEEKING TO PLACE A FREEZE, OR LOCK, ON THEIR CREDIT REPORTS; REQUESTING A REPORT.

WHEREAS, the Data Breach Notification Act was enacted in 2017 and became effective on June 16, 2017; and

WHEREAS, Equifax is one of three nationwide credit report service providers that collects the personal information of many New Mexico residents; and

WHEREAS, on September 7, 2017, Equifax reported to the federal trade commission that it had suffered a breach of consumer data; and

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1           WHEREAS, the federal trade commission has reported that  
2 personal information regarding approximately one hundred forty-  
3 three million American consumers was exposed in the Equifax  
4 data breach; and

5           WHEREAS, the Equifax data breach included the credit card  
6 numbers of approximately two hundred nine thousand people and  
7 personal identifying information for approximately one hundred  
8 eighty-two thousand people; and

9           WHEREAS, the Data Breach Notification Act places certain  
10 contractual requirements for data security on the owners or  
11 licensees of personal identifying information and notification  
12 requirements on both the service providers and on the owners  
13 and licensees of personal identifying information; and

14           WHEREAS, the website Equifax initially provided for  
15 consumers to check if they had been affected by the breach was  
16 reported to require consumers to sign up for a credit  
17 monitoring service, and while the website does not currently  
18 have that requirement, many consumers may have been disinclined  
19 to check the website because of the perception that they would  
20 have to sign up for the service and pay for it; and

21           WHEREAS, the federal trade commission encourages consumers  
22 to consider putting a lock, also referred to as a freeze, on  
23 their credit reports as a safety measure; and

24           WHEREAS, consumers who decide to put a lock on their  
25 credit reports must contact each credit reporting service

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1 separately and pay each service's fee; and

2 WHEREAS, after Equifax announced its data breach, it  
3 waived its credit report lock fee for a period of time, but the  
4 other credit reporting agencies did not; and

5 WHEREAS, New Mexico has been listed as one of the five  
6 most expensive states for consumers to lock their credit  
7 reports, along with Washington, Texas, Pennsylvania and South  
8 Dakota; and

9 WHEREAS, consumers can lock their credit reports for free  
10 in seven states: Colorado, Indiana, Maine, New Jersey, New  
11 York, North Carolina and South Carolina;

12 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE  
13 OF NEW MEXICO that the attorney general be requested to review  
14 and evaluate:

15 A. the compliance in New Mexico of the owners and  
16 licensees of personal identifying information and the service  
17 providers that retain that information under contract with the  
18 Data Breach Notification Act;

19 B. the effectiveness of the current requirements of  
20 the Data Breach Notification Act in protecting personal  
21 identifying information and in assisting consumers to protect  
22 their credit after a data breach incident; and

23 C. the methods that various states have used to  
24 ensure that consumers may lock their credit reports for free  
25 and the costs and benefits of those methods; and

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1 BE IT FURTHER RESOLVED that the attorney general be  
2 requested to create a report with the conclusions of the review  
3 and evaluation and proposals to strengthen consumer data  
4 security and breach notification; and

5 BE IT FURTHER RESOLVED that the attorney general be  
6 requested to present the report to the appropriate legislative  
7 interim committee prior to that committee's final meeting in  
8 2018; and

9 BE IT FURTHER RESOLVED that a copy of this memorial be  
10 transmitted to the office of the attorney general.