Approved February 15, 1983
Date

MINUTES OF THE House COMMITTEE ON Commercial & Financial Institutions.

The meeting was called to order by Representative Harold P. Dyck at
Chairperson

3:30 ~~a.m.~~/p.m. on February 7, 1983 in room 527-S of the Capitol.

All members were present except:

Representatives Holderman and Louis, excused.

Committee staff present:

Bill Wolff, Research Department
Bruce Kinzie, Revisor of Statutes' Office
Martha Evans, Committee Secretary

Conferees appearing before the committee:

Jim Maag, Kansas Bankers Association
Tom Regan, Kansas Association of Finance Companies
Jim Rhine, Kansas Association of Finance Companies
Jim Holt, Kansas Credit Union League
Jack Quinlan, Kansas Motor Car Dealers Association
Marge Tidwell, Kansas Manufactured Housing Institute
Bud Grant, Kansas Association of Commerce and Industry

HB 2079 - An act concerning interest rates; amending K.S.A. 1982 Supp. 16-207, 16a-2-201, 16a-2-202 and 16a-2-401 and repealing the existing sections and also repealing K.S.A. 1982 Supp. 16-207e and 16a-2-401b.

Chairman Dyck welcomed those present and announced that hearings on HB 2079 would begin. The Chairman passed around a Memorandum (Attachment 1) prepared by Bill Wolff of the Legislative Research Department which explained HB 2079. He then called on Dr. Wolff to inform members of the committee what the bill was designed to do, the types of loans which would be affected and to what extent. Dr. Wolff reviewed the Memorandum with the committee emphasizing that by reducing the amount covered from $25,000 to $5,000, the most common consumer transaction, the purchase of an automobile, would be removed from the interest rate provisions. He directed the committee's attention to the tables on the second and third pages of the memo. He told the committee that their alternatives included: extending the present law; do nothing and revert back to the old rates; or to pass this bill. He noted that if nothing were done, the old alternative rate of 18% would replace the current 21% in July of 1983.

Jim Maag of the Kansas Bankers Association testified in favor of HB 2079. (Attachment 2) He stressed the tremendous volatility of the Kansas and national economy over the past several years and referred to charts to show the "roller coaster" nature of interest rates. He reminded members of the committee of 1981, when the legislature retained the 18% ceiling on consumer loans, how consumer credit was sharply restricted during this year as the prime rate stayed well above the 18% ceiling. He noted that statistics from the CCC showed almost a 50% drop in consumer loans between 1979 and 1981. He said that interest rates are set in the marketplace and that loan rates do not automatically go to the ceiling and stay there. He noted that those borrowers whom low ceilings are designed to "protect" are usually "protected out" of the market--that is denied credit altogether.

Mr. Tom Regan, the Kansas Association of Finance Companies, introduced Jim Rhine who testified in favor of HB 2079. (Attachment 3) Mr. Rhine reported that in 1981 of the 343 finance companies in Kansas, 101 were forced to close. He said that the 1981 Annual Report showed a combined loss of $885,000, and that consumer finance companies as a whole had stopped lending during the time when the prime rate stayed between 18 and 21.5% and Kansas had a 18% ceiling. Mr. Rhine noted the development and growth of the lease-rental stores for furniture and appliances which are not regulated. A comparison of Kansas with other UCCC states was made, including charts, showing that Kansas was lagging behind in partial or total deregulation of consumer credit.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Jim Holt testified in behalf of the Kansas Credit Union League and in support of HB 2079. (Attachment 4) Mr. Holt stated that credit unions support the concept of allowing the operation of the marketplace to determine the rate of return on savings and the cost of borrowing; this is known as deregulation. Despite KCUL's support of deregulation, he noted that the Kansas Legislature has been reluctant to do this in the area of consumer lending and that, in an effort to achieve the possible, the association lends its support to HB 2079.

Jack Quinlan, representing the Kansas Motor Car Dealers Association, spoke as a proponent of HB 2079. He said that he seconded everything the proponents had offered and that his association just wanted to go on record as supporting this bill.

Marge Tidwell of the Kansas Manufactured Housing Institute spoke to the committee (Attachment 5) and said that the interest of KMHI in HB 2079 stems from their desire to continue to do business. She said that if the 21% ceiling on interest rates for consumer loans is allowed to expire in July, 1983, that the manufactured housing business in Kansas would slow down or come to a standstill. The KMHI then asked for an extension of the present ceiling on consumer loans and a study of the entire subject by the Legislature.

Bud Grant, Kansas Association of Commerce and Industry, appeared to discuss HB 2079. (Attachment 6) He emphasized the cost to the retailer of providing revolving credit and said that when credit is selected as a required loss leader, the burden of subsidy falls primarily on cash buyers; thus it forces non-credit users to subsidize the use of credit by others. He then traced a brief history of what has happened in those 15 states which have eliminated ceilings. Quoting a study by the National Commission on Consumer Finance, he said, "There is no logical reason to select any type of product or service sold by a retailer and legally require it to be sold at a loss".

Hearings on HB 2079 were concluded and the conferees answered questions presented by members of the committee.

Chairman Dyck opened discussion and possible action on HB 2071 and HB 2072.

HB 2071 - An act relating to adjustable loans; concerning certain types thereof; amending K.S.A. 1982 Supp. 16-207d and repealing the existing section.

The discussion on HB 2071 centered on the wording of "shall" or "may" in the bill. The consensus of the committee was to retain the word "shall". Rep. Jarchow asked if the CUL, which had proposed the change, could still support the bill. It was recalled that Mr. Umholtz of Credit Union League had said that it was a minor point and would not interfere with their support of the bill.

Rep. Teagarden moved that HB 2071 be passed out of committee favorably. The motion was seconded by Rep. Wilbert and the motion carried.

HB 2072 - An act relating to credit cards; amending K.S.A. 16-842 and repealing the existing section.

Rep. Miller offered an amendment to HB 2072 (Attachment 7) which would require that a telephone number be furnished creditcard holders to use in case of loss or theft of their card.

Rep. Miller then moved to incorporate the amendment into HB 2072. Rep. Shelor seconded the motion, and the motion carried.

Rep. Miller moved that HB 2072 be recommended favorably as amended out of committee. Rep. Nichols seconded the motion, and the motion carried.

On the motion of Rep. Sand and seconded by Rep. Teagarden, the minutes of the February 3 meeting were approved by the committee.

The Chairman presented a request made for introduction by the committee of a Committee Bill. This requested bill would allow small banks to invest public funds with Savings & Loans in a way that would not count against their loan limits.

Rep. Ott moved that the proposed legislation be introduced as a Committee Bill. Rep. Sand seconded the motion and the motion carried.

The meeting was adjourned at 5:00 p.m. by the Chairman.

The next meeting of the committee will be held at 3:30 p.m. on February 14, 1983.

DATE February 7, 1983

GUEST REGISTER

HOUSE

COMMERCIAL & FINANCIAL INSTITUTIONS

| NAME | ORGANIZATION | ADDRESS |
| --- | --- | --- |
| Bud Grant | KNCI | Topeka |
| Tom Riegan | KAFC | " |
| James M. Rhine | KAFC | Manhattan |
| Jim Holt | KCUL | Valley Center |
| Jack A. Quinlan | KMCDA | Topeka |
| Jim Mulford | KCUL | Wichita |
| Margie Tidwell | KMHI | Topeka |
| Orie L. Lemon | KBA | Topeka KS. |
| Bruce Schreiner | AP | Lawrence |
| Mel Battin | Cons. Credit Comm | Topeka |
| Don Phelps | " " " | " |
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MEMORANDUM

January 31, 1983

TO: House Committee on Commercial and Financial Institutions

FROM: Kansas Legislative Research Department

RE: Interest Rates and 1983 H.B. 2079

Since 1974, Kansas consumers, sellers and lenders have been subject to the Uniform Consumer Credit Code (UCCC). Generally, that law applies now to consumer credit transactions which are primarily for personal, family or household purposes, do not exceed $25,000 and are payable in installments or finance charges are made upon them.

The UCCC established three categories of interest rates closed end or installment (16a-2-201), open end or revolving (16a-2-202), and lender rates (16a-2-401). Closed end installment contracts calculate in advance the amount financed and the finance charge and provide payment of the precomputed total in equal installments at equal intervals, e.g., automobile loans. Open end credit includes revolving credit accounts and lines of credit which are payable usually monthly in amounts which are a percentage of the outstanding balance, e.g., Sears, Penneys, Standard Oil credit cards. Finally, lender rates are those charged on loans made: by supervised financial organizations -- banks, savings and loan associations and credit unions; by licensed lenders -- finance companies; and by lender credit card arrangements -- Visa and Master Card.

H.B. 2079 would amend the UCCC to:

(1) exempt from the interest rate provisions of the Code and from the general usury law all consumer credit transactions in excess of $5,000;

(2) establish one interest rate section within the Code applicable to all consumer credit transactions; and

(3) change the interest rates on consumer sales and loans.

As noted above, the UCCC has applied to all consumer credit transactions from $1 to $25,000. The proposed amendment would appear to significantly reduce the number of consumer credit transactions which would be subject to the rate provisions of the Code by exempting transactions in excess of $5,000. Such a reduction removes perhaps the most common consumer transaction, the purchase of an automobile, from the interest rate provisions.

TABLE I

($1,000 for 12 months)

| | Current Rates (21-18-14.45)% | Proposed Rates (36-21-15)% | Alternative Rates (21)% | Alternative Rates (20)% | Alternative Rates (19)% | Alternative Rates (18)% |
|---|---|---|---|---|---|---|
| Interest.... | $108.32 | $182.96 | $117.32 | $111.61 | $105.88 | $100.16 |
| APR...... | 19.426% | 32.215% | 20.992% | 19.99% | 19.0% | 18.0% |

TABLE II

($5,000 for 12 months)*

| | Current Rates (21-18-14.45)% | Proposed Rates (36-21-15)% | Alternative Rates (21%) | Alternative Rates (20)% | Alternative Rates (19)% | Alternative Rates (18)% |
|---|---|---|---|---|---|---|
| Interest.... | $442.48 | $590.44 | $586.83 | $558.07 | $529.39 | $500.80 |
| APR...... | 15.95% | 21.125% | 21% | 19.998% | 18.988% | 18.0% |

*$5,000 is the approximate dollar amount financed at the proposed blended rates which yields 21%, the same rate proposed in H.B. 2079 as an alternative rate to that blend.

Regarding interest rates, H.B. 2079 would amend K.S.A. 16a-2-201, closed end credit sales, by deleting the blended rates currently provided for such transactions and replacing them with a reference to the rates provided for lenders in K.S.A. 16a-2-401 (2) and (9). The following display indicates the change:

| Current | Proposed* |
|---|---|
| 21% on $300 or less | 36% on $540 or less |
| 18% on $301 to $1,000 | 21% on $541 to $1,800 |
| 14.45% on the excess above $1,000 | 15% on the excess above $1,800 |

The same change is proposed in K.S.A. 16a-2-202, open end credit sales, but since the interest charge is made monthly, the rate set out in that section is 1/12 of the maximum annual rates permitted. The following indicates the change:

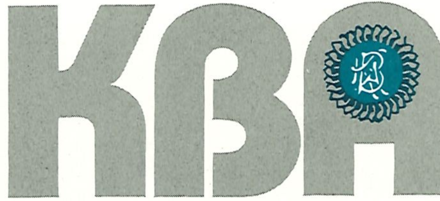
| Current | Proposed |
|---|---|
| 1.75% on $300 or less | 3% on $540 or less |
| 1.50% on $301 to $1,000 | 1.75% on $541 to $1,800 |
| 1.2% on the excess above $1,000 | 1.25% on the excess above $1,800 |

The attached Tables I and II provide examples of the amount of interest which would be paid and the Annual Percentage Rate (APR) charged on two different dollar amount transaction payable in 12 months, at various interest rates.

*The proposed rates, with a minor change from 14.45 to 15 percent, are the present rates available only to licensed lenders under K.S.A. 16a-2-401(2).

BW/pa

Attachment




The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 7, 1983

TO: House Committee on Commercial and Financial Institutions

RE: HB 2079 - UCCC Interest Rates

Mr. Chairman and members of the Committee:

The members of the Kansas Bankers Association appreciate this opportunity to appear before the Committee and discuss HB 2079 which makes several amendments to the Uniform Consumer Credit Code. Because the Legislature has followed a policy in the past several years of extending consumer interest rate limitations under the Code on a year to year basis, this has been an ongoing discussion and each year we believe these discussions have resulted in a more enlightened approach to consumer credit issues. HB 2079 continues this discussion and adds one new dimension which is the deregulation of consumer loan rates for amounts in excess of $5000. The bill also makes permanent at 21% the ceiling for all consumer loans below $5000. The bill does not change any of the consumer protection provisions of the Code.

We have seen at the federal level over the past several years an accelerating deregulation of the liability side of banking (what banks pay for their deposits). There is relatively little, however, which state government can do to regulate that aspect of the banking industry. That is determined by federal policy and by national and world economic conditions. On the other hand, in most states including Kansas, state legislatures still have the authority to determine a large part of the asset side of banking by legislating what banks may charge for loans. Over the years the Kansas legislature has taken an enlightened view on interest rate legislation and in 1981 made the major policy decision of deregulating all commercial and agricultural loans in the same manner that corporate loans had been deregulated in earlier years. The one area where the debate continues is the area of consumer loans.

When the Uniform Consumer Credit Code became effective in 1974 the Code set out specific bracketed rates for consumer loans made by licensed lenders and those remained basically in place over the next several years. In 1980 the legislature made a slight change by allowing an 18% alternative rate for all financial institutions on consumer loans and in 1982 raised the alternative rate on consumer loans to 21%.

Everyone is well aware of the tremendous volatility we have had in the Kansas and national economy over the past several years and the accompanying charts which show what the New York prime rate has been from 1979 through 1982 and what the 91-day Treasury bill rate has been in that same time period are classic examples of the "roller coaster" nature of our economy. Veteran members of this Committee will recall that in 1981 this same group appeared before

Attachment 2
HSE C&FI COMMITTEE 2/7/83

**Office of Executive Vice President** • 707 Merchants National Building
Eighth and Jackson • Topeka, Kansas 66612 • (913) 232-3444

the Committee requesting an alternative rate of 21% under the Code, but at that time (March 1981) the prime rate had dropped slightly below 18% at the time the legislature was considering this legislation. Thus, the legislative decision was to leave the ceiling on consumer loans at 18% through June of 1982. However, soon after the legislature adjourned in 1981 as the accompanying charts show, interest rates on a national and world-wide basis increased dramatically and for most of the remaining months of the year the prime rate stayed well above the 18% ceiling for consumer loans. Of course, Committee members are well aware that the prime rates constitute the lowest possible loan rates which are available to the best corporate customers and the consumer loan rates are usually several percentage points above those.

The practical effect of the 18% ceiling throughout 1981 was to sharply restrict the availability of consumer credit--particularly in the $5000 and below loan category. Statistics from the office of the Consumer Credit Commissioner show that in 1979 there were 143,558 loans reported to his office in the category of $5000 and less. That figure dropped to 75,398 in 1981 for the same categoy of loans. This constitutes almost a 50% drop and in his official transmittal letter to the governor, Commissioner Don Phelps noted that "we look with concern on the fact that the number of loans made in the $0-$2500 category has dropped by over 14,000 in 1981 which would indicate a number of consumers are not being served."

A basic question which the legislature must address and bills such as HB 2079 set forth is to what extent does the legislature play both an economic and social role in determining the availability of credit? In recent testimony for the New York legislature, Allen R. Cohen, the acting superintendent of the New York state banking department made the following comment:

> "Usury ceilings have proven to be counterproductive and have lead in the past to sharp restrictions in the availability of both consumer credit and mortgage credit to the public of this state."

The Superintendent went on to point out that the elimination of usury ceilings do not leave the consumer without protection. He stated, "On the contrary, the most effective protection for consumers in this state is the existence of competition among lenders." Another chart which we have included in our material would bear out this observation. It is a chart showing various types of consumer loans made by some 44 Kansas banks from July through December of 1982. Two things are apparent from these charts: (1) rates started well below the 21% ceiling which went into effect in July; and (2) the rates have moved downward throughout the past six months. This indicates the competitive marketplace is at work and just because a certain rate ceiling exists, loans rates do not automatically go to that ceiling and stay there.

A recent study by the Credit Research Center, Kranert Graduate School of Management, at Purdue University made the following observation about what happens when interest rate ceilings on consumer loans are established which are below the marketplace cost of money. The study notes that under those circumstances, the number of borrowers, particularly those seeking small loans, instead of being protected are "protected out" of the market--that is they are effectively denied credit altogether. The study further observes that borrowers who are

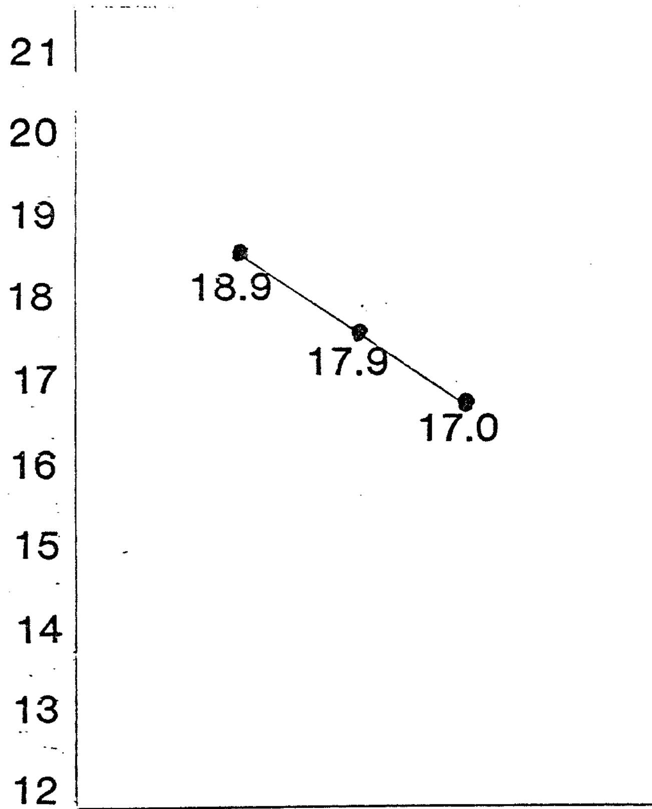
denied credit are not necessarily those who have defaulted on loans. Thus, low ceilings tend to deny credit to a majority of high risk borrowers who can manage their debts satisfactorily in order to "protect out" the minority who supposedly cannot.

The accompanying charts on the New York prime rate and the 91-day Treasury Bill rates over the past three years again emphasize the roller coaster nature of the economy and this is why we believe the legislature should seriously consider the concept of deregulation so that institutions will have more flexibility to plan their loan policies and the ability to better match their liabilities and assets. Committee members may legitimately wonder why with a present prime rate in the area of 11% to 12% and a ceiling of 21% that there is any need for further deregulation. Our reply to this must take many forms. Unfortunately, none of the answers to this question lies within the scope of authority of the Kansas legislature. There are currently any number of underlying factors which lead creditors to express grave concern about what might happen to interest rates within the next year. For instance, we know that there will be enormous federal deficits for the coming fiscal years--some of them in the neighborhood of $200 billion or more. What effect will the financing of this debt have on interest rates? Secondly, there continues to be a dramatic inflow into the American economy of Eurodollars because of instability in markets throughout the world and the potential default on rollover of billions in loans to third-world countries. It should also be noted that by the end of 1985, there will be almost total deregulation on interest rates paid by financial institutions and there is always the possibility of an easing of monetary controls by the Federal Reserve. We already have the famous example of what happened in the past three years when the Federal Reserve pursued just such a policy in 1979 and 1980.

Deregulation of consumer loans in excess of $5000 or some figure determined by the legislature does not mean, of course, that there would automatically be any increase in rates charged to consumers. As we have noted above, just because there has been a 21% ceiling on consumer loans in the last seven months has not resulted in consumer loans going to that level. In fact, they have continued to drop in response to the demand of the marketplace. However, if the factors which determine the cost of money and inflation return, financial institutions want the flexibility to remain in business and give the public the opportunity to have credit available to them if they choose to use such credit.

We believe that Kansas legislature is to be congratulated for the very objective and straightforward approach they have taken to other usury laws over the years and we continue to believe that the legislature will objectively address the consumer loan issue and will act in the best interests of the Kansas consumer and creditor. We appreciate very much the opportunity to present this testimony on House Bill 2079 and we stand ready and willing to work the members of this Committee and the legislature to create a workable consumer policy.

James S. Maag
Director of Research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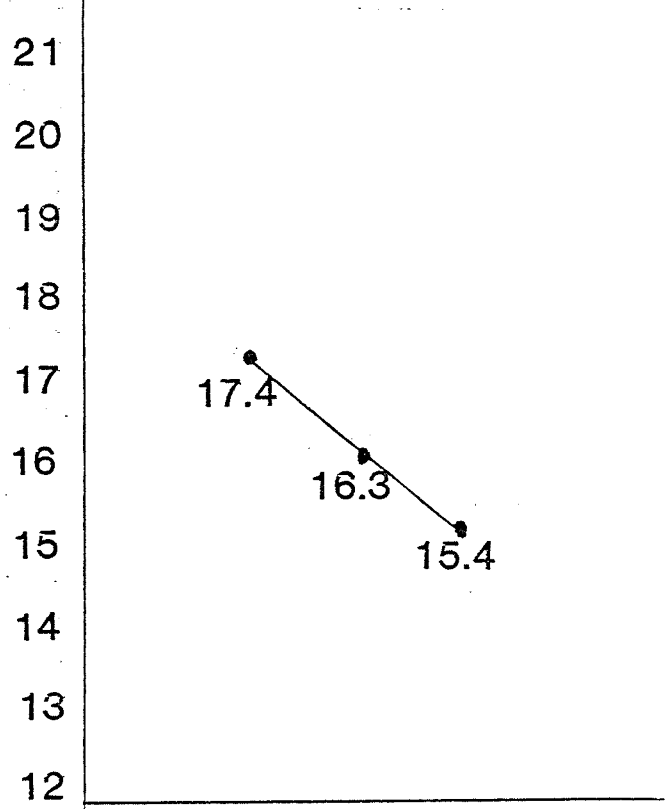
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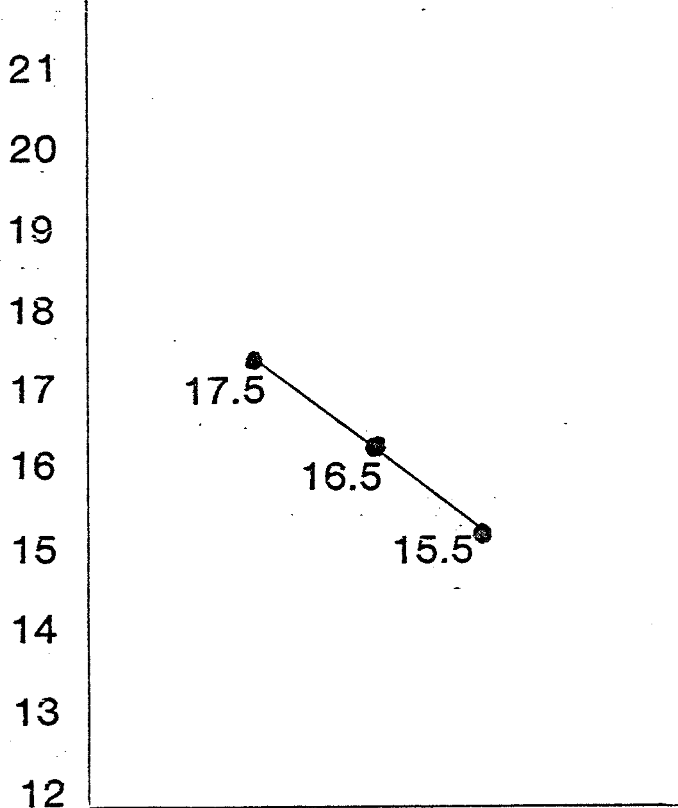
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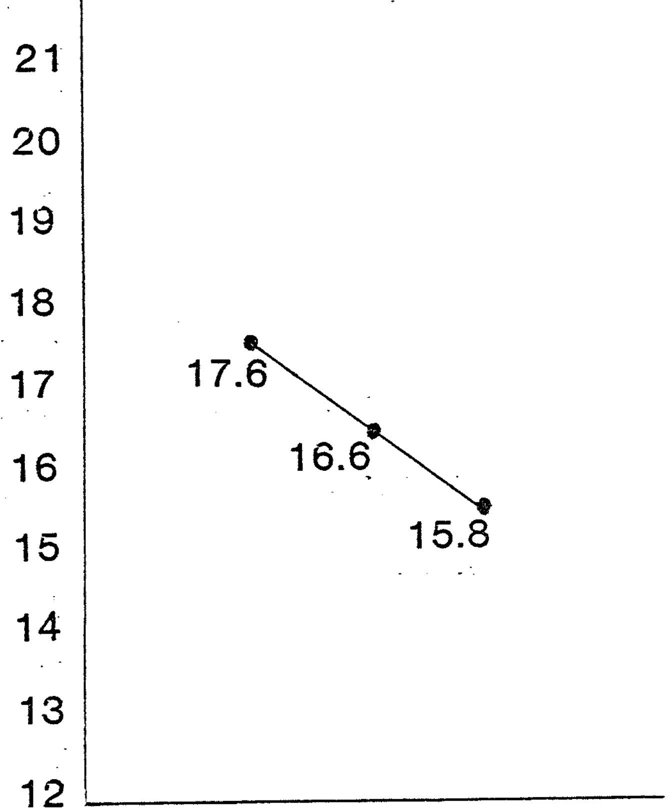
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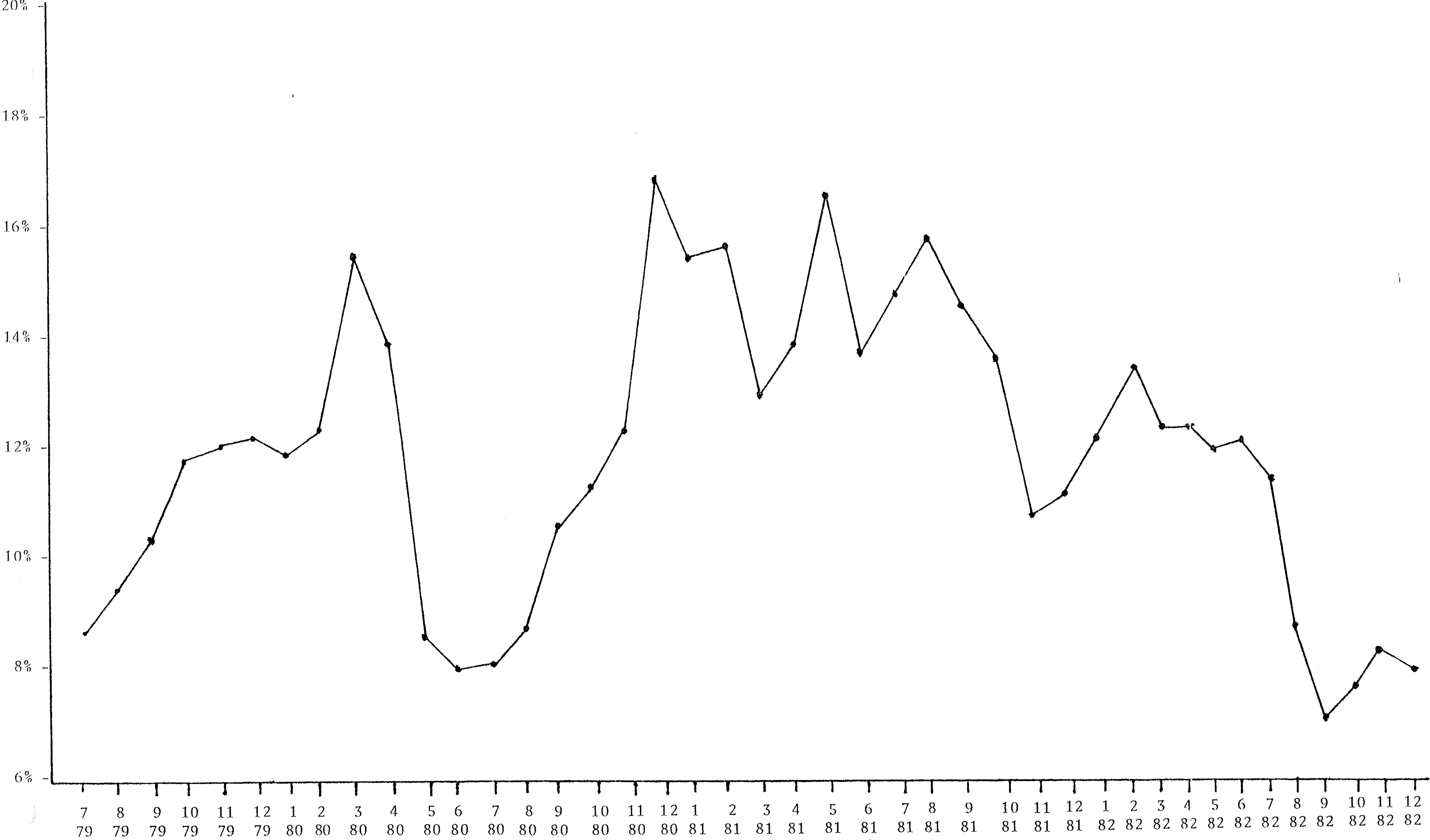
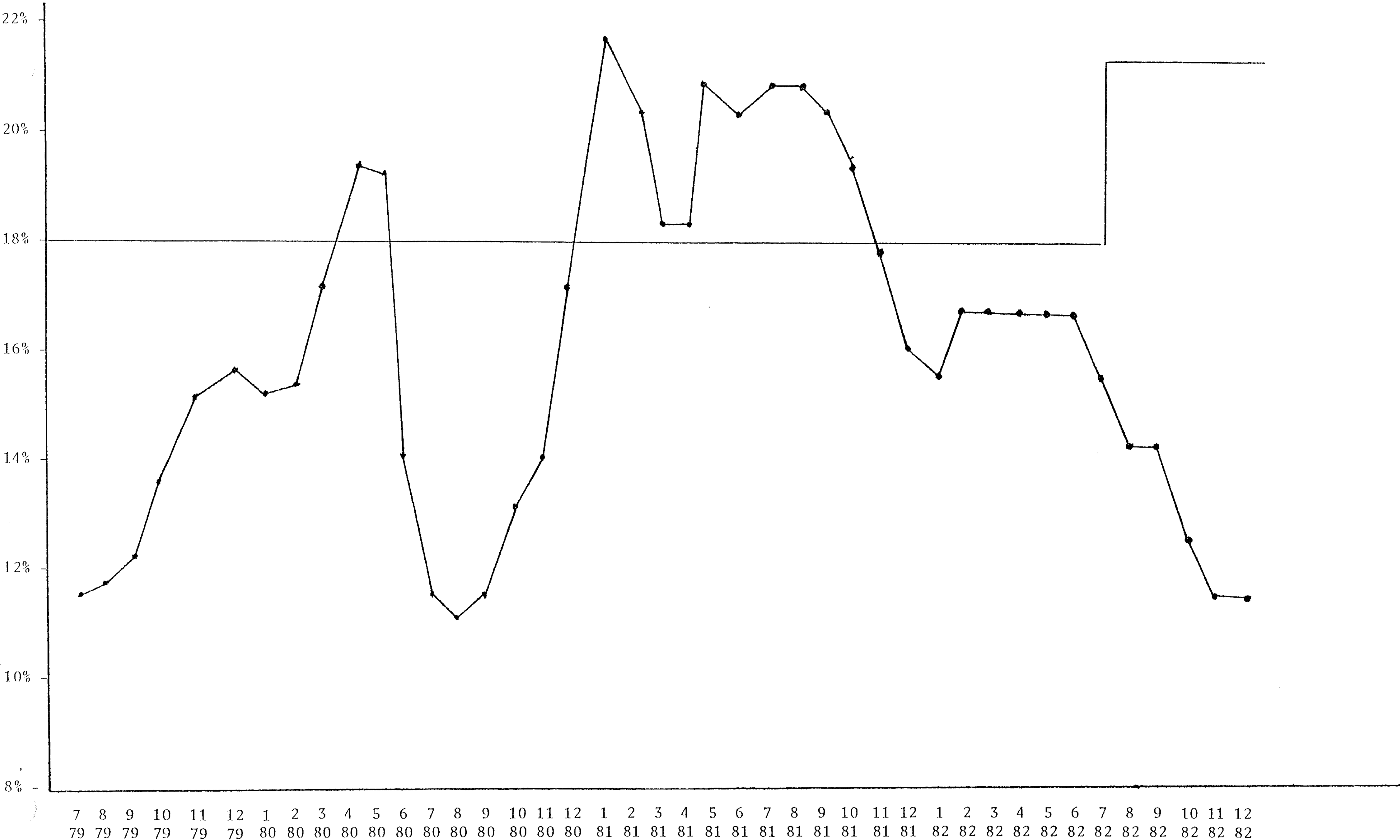



91-DAY T-BILL RATE




NEW YORK PRIME RATE

# Treasury Borrowing Needs Are Projected At $203 Billion New Cash in Fiscal 1984

By LAURIE MCGINLEY
*Staff Reporter of* THE WALL STREET JOURNAL

WASHINGTON—The Treasury, which is expected to borrow a record $215 billion in the current fiscal year to finance the federal budget and lending programs, plans to borrow $203 billion in new cash next year, the Reagan administration says.

The projected borrowing for fiscal 1984, which starts Oct. 1, is a sore point for President Reagan, who took office promising to balance the budget by next year. Private economists worry that the government's enormous credit demands over the next several years could keep interest rates high or drive them higher, shutting businesses and consumers out of the credit markets, and hampering the long-awaited economic recovery.

The Reagan administration is projecting a budget deficit of $189 billion in fiscal 1984. The government also must borrow to finance an estimated $14 billion in programs that by law aren't included in the budget.

The deficit for the current fiscal year is estimated at $208 billion, with "off-budget" spending at $17 billion, the administration says. All but about $10 billion of the total requirement will be raised by public borrowing, the administration says.

Off-budget programs include the Agricultural Department's rural electrification program and the strategic petroleum reserve. In addition, federally sponsored agencies, such as the Federal National Mortgage Association, borrow to finance their programs.

## U.S. Borrowings Rise

Federal borrowing totaled 48.9% of the funds raised in credit markets in fiscal 1982, up sharply from 33.3% the year before, according to the budget. If the trend continues, says Maury Harris, chief economist for Paine Webber Inc., "we'll probably get only a weak recovery in capital spending." The administration didn't provide an estimate for the current fiscal year.

In an effort to reduce borrowing next year, the administration is proposing a 9.4% decrease, to $137.6 billion, in its federal loan and guarantee programs. "Recent experience has shown that these programs preempt private-sector investment resources, and this absorption has an inhibiting effect on productivity and economic growth," the budget says.

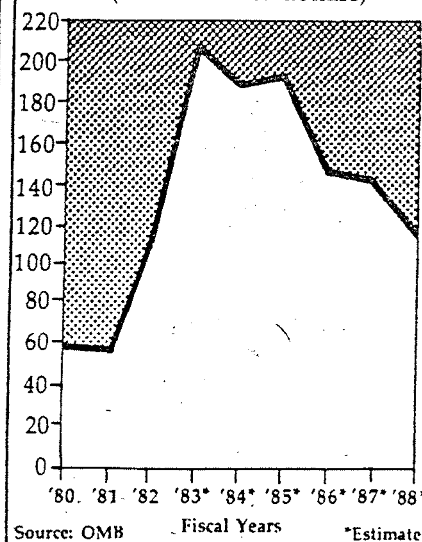
The credit budget for the current fiscal year is projected at $151.8 billion, up 49.9% from $101.3 billion in 1982. The budget says the low 1982 figure was "largely due to the effect of the recession and high interest rates on demand-based" federal housing programs.

The 1984 budget calls for a reduction in direct loans to $38.8 billion from the $49.1 billion projected for the current fiscal year. Guaranteed loans would decline to $98.7 billion from this year's estimated $102.7 billion.

Under the administration's proposal, the Small Business Administration's subsidized direct-loan program would end, as would the mortgage-purchase activities by the Government National Mortgage Association. In addition, the Commodity Credit Corp.'s price-support and related programs would be cut $3.8 billion, to $8.04 billion; the Farmers Home Administration's rural housing insurance fund would be reduced $3.1 billion, to $316 million.

The administration said that the sharp reduction in Commodity Credit Corp. programs reflects the administration's proposed "payment-in-kind" program, which would provide farmers with surplus commodities in exchange for reducing their crop production. The decrease in FHA housing funds reflects a proposal to include these funds as part of a rural block grant to states, the administration said.

The budget also includes $3.8 billion in Export-Import Bank loans for the next fiscal year, the same as in the current year. But, the budget says that the president will seek a supplemental authorization for direct-loan obligations of as much as $2.67 billion for 1984, if necessary to meet subsidized foreign competition.




The projected decline in the budget deficits from a peak of about $208 billion in the current fiscal year assumes congressional approval of all the Reagan administration's proposed program changes, including adoption of the surtax on income and an excise tax on oil starting in fiscal 1986.

# Missouri should remove loan interest lid

Missouri legislators who oppose the banking lobby's latest effort to remove the state's legal interest rate lid on consumer loans would do well to remember that they're fighting a losing battle.

The debate over the morality of hiring out one's money to make more money has been going on since at least the days of Deuteronomy and despite the proscriptions inspired largely by the Judeo-Christian ethic, the lenders have prevailed.

The triumph of the money-changers through the ages has been a victory of the requisites of reality over mankind's seemingly inborn urge to master the natural dynamism of the marketplace while ignoring human nature and needs.

Whereas interest rate controls are currently a political phenomenon pushed by those who claim to be champions of the struggling consumer, the issue historically has been more the concern of theologians than politicians.

A study of this religious legacy was undertaken a few years back by a stockbroker acquaintance who took a mid-career sabbatical to study at Yale's divinity school.

Since religious scruples and the profit considerations of the business world have frequently been in conflict, Archie Jenkins found himself especially interested in how John Calvin came to legitimize usury despite the age-old stigma dating to the days of the Hebrew tribesmen.

Mr. Jenkins has long since departed the groves of academe to resume his career at Merrill Lynch's offices in Jacksonville, Fla., but some of the insights offered in his resulting paper are especially interesting given the continued effort in Missouri and some other states to keep consumer borrowing charges artificially below the rates prevailing in an increasingly deregulated lending market.

Jerry Heaster
The Star's business & financial editor

Mr. Jenkins notes that in Old Testament Jerusalem usury and interest were one and the same. While the blood brotherhood of the Hebrew tribesmen forbade taking it from brothers, all foreigners were fair game.

Deuteronomy 23:19-20 says, in part: "Thou shalt not lend upon usury to thy brother . . . Unto a stranger thou mayest lend upon usury."

The question raised by such scriptural commandments against usury, he notes, remained the same for both the Hebrew brotherhood and the lead was later followed by the disciples of Christianity:

Were such laws designed to insulate vulnerable minorities from more powerful economic constituencies, or did they reflect's God's will?

As the debate continued throughout the centuries, the strongest argument against usury remained the need to forgo inflicting economic pain on a member of the brotherhood.

But the forces of economic expediency kept getting in the way, Mr. Jenkins says, and by the 16th century banks run by Christians were springing up in response to the growing Jewish dominance of the lending industry.

Ultimately, Mr. Jenkins relates, it fell to John Calvin to redefine the rules of the game and preside over "the crisis and demise of Deuteronomy."

A reading of Mr. Jenkins' monograph leaves no doubt that John Calvin used some intellectual mirrors in trying to relieve men of good conscience of the anti-usury baggage accumulated over several millenia.

Basically, he put forth the concept of universal Christian "brotherhood" to eliminate the notion of "otherhood." Thus it followed, according to Calvin dicta, that if mankind were all one big, happy family, "usury is permissible if it is not injurious to one's brother . . . not forbidden . . . except insofar as (its uses) are opposed to equity or charity."

Philosophically, the protestant ethic so greatly influenced by Calvinistic thought has been an important thread in the fabric of capitalism and Calvinism has provided refuge for free-market scoundrels attempting to justify their more predatory pursuits.

In fairness, though, Mr. Jenkins emphasizes that John Calvin was no lackey of the system and "no man ever labored more zealously to stem the tide of economic materialism."

Rather, he was a realist attempting to create a society capable of accommodating the real world demands of the capitalistic revolution that had turned a natural economy into a money economy.

It's an inclination that state lawmakers would do well to emulate four centuries later.

The revolution that has swept the credit markets since the mid-1970s is no less dramatic than the capitalistic transformation that was changing John Calvin's world.

Most segments of the credit market are free and subject only to market forces. The only fetters that remain are ones that tend to shackle those at the lower socio-economic levels.

If Missouri's lawmakers insist on keeping consumer rates artificially low, the only accomplishment will be to deny Missourians plentiful supplies of credit—especially average consumers to whom the big-money world of unregulated markets is closed.

Despite this given, legal restraints are defended on the pretext of protecting poor people from rip-offs or being charged a "pound of flesh."

These arguments are as outdated as Deuteronomy. Also, it must be remembered that when it comes to injury in such transaction, liberalized bankruptcy laws have made lenders at least as vulnerable to rip-offs as borrowers.

Such considerations aside, though, if lenders can't get a competitive price for the use of their money in Missouri, they'll ship it off to a state where they can, because that is the way the real world works.

Many states with unrealistic usury laws discovered this in 1974-75 and thereby inflicted much pain on their state's economies because it curbed consumer activity.

It was a hard lesson and there are many in Jefferson City who apparently still haven't learned it.

Remarks Pertaining to H. B. 2079

Before the

House Commercial & Financial Institutions Committee

on February 2, 1983

by Stanley L. Lind,

Counsel and Secretary

of the

Kansas Assn. of Finance Cos.

Attachment 3
HSE C&FI COMMITTEE 2/7/83

Mr. Chairman and members of the committee:

Before discussing H.B. 2079 which was introduced by the committee at the request of the various creditor organizations appearing here today, I would like to first introduce the trade association I represent before the committee today.

The Kansas Assn. of Finance Cos. is the state trade association of the consumer finance companies in Kansas. There are approximately 240 licensed lenders located in 51 towns and cities throughout Kansas. Of these, two-thirds of these offices belong to our association and the overwhelming majority of the $336 million plus assets of all licensed lenders were held by our membership.

In 1981, approximately 85000 loans totaling $216 million plus were made which averages out to meaning that we made loans to approximately every ninth family in Kansas in 1981.

The reason I have referred to 1981 is that is the last year for which we have statistics. Each year, each licensed lender is required to file a comprehensive report with the Consumer Credit Commissioner for the preceding year. This is consolidated and published by the Commissioner around August of the following year, which means that the 1982 figures will not be available until August of 1983.

Jim Maag has given you a review of the requests and presentations which we as a group of creditors made to the Legislature in the 1981 and 1982 Sessions - and - the subsequent actions of the prime rate. I would like to make a short review of the situation in these years from the standpoint of the consumer finance companies.

Those members who were in the Legislature in the 1982 Session will remember that I wrote a weekly letter to every legislator starting in late August of 1981 and ended in early January of 1982.

In those letters I told the Legislators what was happening to finance companies as it was occuring. Each week I reported the number of finance offices that were closed during that week. The total closed in 1981 was 101 out of 343 that were open at the beginning of 1981.

In those letters, notwithstanding the fact that the annual report for 1981 would not be completed until August of 1982, I told the then Legislators that 1981 would show a loss from our operations. It was not hard to predict when the alternative rate was set by the 1981 Legislature at 18% and the prime rate exceeded that percentage figure for over six months in 1981.

When the 1981 Annual Report was published, it showed a combined loss of $885,000 on combined average assets of $336 million plus.

In addition to advising the Legislators of the foregoing facts as they were occuring and predicting the net outcome in advance, I advised in my letters that consumer finance companies as a whole, had stopped lending money altogether because the prime rate stayed between 18 to 21.5% for at least 6 months in 1981, as stated before.

Our companies could not borrow at prime rate plus 1 to 2 additional points - and lend at the maximum alternative rate of 18%. It was just that simple.

What we were seeking in the 1981 and 1982 Sessions - and - what we are seeking now in H.B. 2079 by making the alternate rate of 21% permanent, is to be freed of the roller-coaster economy of the last three years. If the factors which determine the cost of money causes a rise in the prime rate and a return of inflation, we want to be able to remain in business and to give the public the opportunity to have credit available - if they choose to use it.

As legislators, I know that you are interested in knowing what other states have done with this same problem. This is particularly true when there are eight other states besides Kansas which have adopted the Uniform Consumer Credit Code.

Attached to the copy of my typed presentation which has been distributed to you is a table that compares the Kansas instalment loan rates with the other UCCC states. (It is the 3rd sheet from the end).

If you will review this with me, you will note that every state except Wyoming has higher dollar brackets, than does Kansas.

You will also note that every state has a permanent 21% alternative rate, except Maine and Kansas.

Especially note that South Carolina has removed all rate limitations. In other words, it is completely deregulated.

Another aspect of H.B. 2079, is that we have requested that the instalment sales rates be made equal to the instalment loan rates, and that the Cost of Living Index also be made to apply to the dollar brackets of instalment sales.

Traditionally, there has always been a difference in these rates upon the basis that the instalment sales transaction was secured and that there was a down-payment to insure that depreciation would not occur faster than the buyer's equity would develop.

While the creditor is still secured in instalment sales transactions, down payments have been driven down so low by competition that they are no longer considered a credit factor. This means that almost any repossession means a loss to the creditor.

In addition, in these times of roller-coaster interest rates as determined by the changing prime rate, when lenders don't even have enough money to make loans at rates which are higher than instalment sales credit, it is only natural for creditors to take themselves out of the instalment sales field when it pays a lower rate.

I can tell you that consumer finance companies in Kansas, as a whole, have not been buying instalment sales contracts for the last 2 to 3 years. This means that the retailers have had their money supplies dry-up with the result that they have had to either stop credit sales or finance them with their own resources. Normally, this means that the dealer increases the sales price - and then finances the sale under the present rates.

Because the Kansas instalment sales rates are inadequate, we have seen the development and growth of the lease-rental stores for furniture and applicances in the last two or three years. The reasons are that the lease approach is not regulated for their rates

of charges - and - the creditor is better off in the event of bankruptcy. To summarize, creditors make no distinctions between instalment loan or instalment sales credit. If they are not equal, the lower rates will not be used, or if used, only after the market for instalment loans has been satisfied. That has not been the case in Kansas for some time.

Once again, I would like you to compare Kansas with the other UCCC states as to instalment sales rates. If you will turn to the next to the last page of the materials distributed to you, I would like to bring to your attention six things:

First: Every state has a higher rate in each of the first three dollar brackets or steps, than does Kansas.

Second: Every state has higher dollar brackets in the first and second steps than does Kansas.

Third: Every state except Kansas and Maine has a permanent 21% alternative rate.

While not shown here, the fact is that Kansas does not have an alternative rate of any kind for instalment sales, except for the sunseted 21% provision.

Fourth: What this chart shows is that every state except Kansas and Wyoming has a provision whereby the Cost of Living Index is applicable to the instalment sales rates.

Fifth: That South Carolina has totally deregulated its instalment sales rates.

and

Sixth: That in every state except Colorado and Kansas, the instalment loan rates and the instalment sales rates are identical, which is what we are asking for in H.B. 2079.

For the same reasons that we have asked that the 21% alternate rate be made permanent, we have also asked that consumer credit over $5000 be deregulated. That is - to permit the money market and competition to set the rate for consumer credit over $5000.

We submit that after the legislature has protected the necessitous borrower, made-up of the poor, the illerate and the person who may be in an unequal bargaining position - that the state should let the market set the rates.

Traditionally, the legislatures have done this by setting a dollar amount. To-day - that amount is $25,000 under the UCCC. We think that a realistic figure would be $5000. We cannot evvision anyone who is poor - illiterate or in necessitous circumstances being able to obtain credit for over $5000 anyway.

While some may think that $5000 is too low - I think that you will agree that $25,000 is too high. The drafters of the UCCC originally proposed that when the UCCC was enacted, that the usury statute would be repealed.

Kansas has repealed the usury act as to business and farm credit. In effect, it has repealed the usury act as to adjustable rate real estate mortgages - as has the federal government.

Once again, I ask that you turn to the materials I have distributed - specifically the last page, which shows what 28 states besides Kansas have done in regard to deregulation of interest rates.

By classifying these 28 states by the type of deregulation they have enacted, we have the following:

| | |
|---|---|
| 1 - No limits of any kind . . . . . . . . . . . . . | 3 |
| 2 - No limits over a stated dollar amount . . . . | 11 |
| 3 - No limits until a stated date . . . . . . . . | 3 |
| 4 - No limit after a stated date . . . . . . . . . | 1 |
| 5 - No limit on regulated lenders . . . . . . . . | 3 |
| 6 - No limit on regulated lenders over a dollar amount . . . . . . . . . . . . . . . . . . | 1 |
| 7 - No limit except for a stated criminal penalty . . . . . . . . . . . . . . . . . . . . . . | 2 |
| 8 - No limit on banks and S & L's . . . . . . . . | 2 |
| 9 - No limits on certain types of credits or lenders . . . . . . . . . . . . . . . . . . | 5 |

The total of this classification adds to 31 because there are some states that fall into more than one category.

Certainly, what this does show is that 28 states have totally or partially deregulated consumer credit charges. 11 states have elected to deregulate over a stated dollar amount - which is what H. B. 2079 would provide.

To summarize - we - as creditors are asking that the Legislature permit four things to be done in H.B. 2079:

1 - To make permanent the 21% alternate rate

2 - To make instalment sales credit equal to that of instalment loans.

3 - To make the 3rd step in the dollar brackets equal to the general usury rate of 15%.

4 - To reduce the UCCC ceiling as to rates only, to $5000.

From our exhibits, you have seen that all of the other UCCC states have already enacted most of the first three items.

From our last exhibit, you have seen that 28 states have completely or partially deregulated consumer credit.

I would like to conclude with this thought. That by the action of the Legislature, a state does not set interest rates. That is done on a national and worldwide scale. What the Legislature does do when it prescribes certain rate limitations - is - to determine to what extent and to whom credit will be extended.

We think that after the necessitous borrower has been protected by legislation, all others should be free to make that decision for themselves.

COMPARISON OF THE KANSAS UNIFORM CONSUMER CREDIT CODE

LOAN RATES WITH THE OTHER UCCC STATES

January 1983

| STATE | First Step | Second Step | Third Step | Alternative Rate | Revolving Rate |
|---|---|---|---|---|---|
| KANSAS | 36% to $540 | 21% to $1800 | 14.45% to $25000 | 18% (with no sunset) 21% (sunset: 6-30-83) | 36-21-14.45% on the same steps shown opposite or 21% |
| COLORADO | 36% to $630 | 21% to $2100 | 15% to $25000 | 21% | 21% |
| IDAHO | 36% to $840 | 24% to $2800 | 18% to $70000 | 21% | 21% |
| INDIANA | 36% to $660 | 21% to $2200 | 15% to $55000 | 21% | 21% or graduated rates as shown opposite |
| MAINE | 30% to $660 | 21% to $2200 | 15% to $55000 | 18% | 18% |
| OKLAHOMA | 30% to $600 | 21% to $2000 | 15% to $45000 | 21% | 30-21-15% on the same steps as shown opposite or 21% |
| SOUTH CAROLINA | Deregulated | Deregulated | Deregulated | Deregulated | Deregulated |
| UTAH | 36% to $840 | 21% to $2800 | 15% to $70000 | 21% | No limit |
| WYOMING | 36% to $300 | 21% to $1000 | 15% to $25000 | 21% | 21% |

# COMPARISON OF THE KANSAS UNIFORM CONSUMER CREDIT CODE INSTALMENT SALES RATES WITH THE OTHER UCCC STATES

January 1983

| STATE | First Step | Second Step | Third Step | Alternative Rate | Revolving Rate |
|---|---|---|---|---|---|
| KANSAS | 21% to $300 | 18% to $1000 | 14.45% to $25000 | 21% (Sunseted) | 21-18-14.45% on the same steps shown opposite |
| COLORADO | 25% to $630 | 21% to $2100 | 15% to $25000 | 21% | 21% |
| IDAHO | 36% to $840 | 24% to $2800 | 18% to $70,000 | 21% | 21% |
| INDIANA | 36% to $660 | 21% to $2200 | 15% to $55000 | 21% | 21% |
| MAINE | 30% to $660 | 21% to $2200 | 15% to $55000 | 18% | 18% |
| OKLAHOMA | 30% to $600 | 21% to $2000 | 15% to $45000 | 21% | 21% |
| SOUTH CAROLINA | Deregulated | Deregulated | Deregulated | Deregulated | Deregulated |
| UTAH | 36% to $840 | 21% to $2800 | 15% to $70,000 | 21% | No limit |
| WYOMING | 36% to $300 | 21% to $1000 | 15% to $25000 | 21% | 21% |

CONSUMER CREDIT RATE DEREGULATION AS OF 1/1/83

Alabama - no limit over $5,000 (until 12/31/87

Alaska - no limit over $10,000

Arizona - no limit under the usury law

California - no limit over $10,000 for licensed lenders; no limit for banks and other financial institutions

Colorado - no limits for non-real estate loans over $25,000 or mobile home loans over $52,500

Connecticut - no limit over $5,000 for real estate loans, but small loan licensees limited by dual business rules to 24% per year; no limits for banks and saving & loans for any loans

Delaware - no limit for regulated lenders

Georgia - no limits for second mortgage loans over $5,000

Illinois - no limit for regulated lenders

Iowa - no limit over $25,000

Kentucky - no limit over $15,000 or for instalment sales except motor vehicles

Massachusetts - no limit over $6,000 except for second mortgages to $40,000 based upon assessed valuation

Montana - no limit for sales finance or regulated lenders except consumer finance companies until 7-1-83

Nebraska - no limit for real estate, business or agricultural loans made by licensed lenders, banks and Saving & Loan or any loan over $25,000

Nevada - no limit, except for mortgage brokers

New Hampshire - no limit over $1,500 for instalment loans or sales, including motor vehicles

New Jersey - no limit for regulated lenders except 30% criminal usury law

New Mexico - no limit until July 1, 1983

New York - no limit for regulated lenders except (perhaps) 25% criminal usury (until 7-1-83)

North Carolina - no limit over $25,000

North Dakota - no limit for consumer finance companies over $1,000 to $15,000 or for any loans by other regulated lenders or for any loans over $35,000

Ohio - no limit for loans except 25% applies to licensees, banks and other regulated lenders

Oregon - no limit for regulated lenders

South Carolina - no limit for consumer sales or supervised and restricted loans if maximum rates are filed with administrator and posted in place of business

South Dakota - no limit for regulated lenders including consumer finance companies or for revolving sales and credit cards

Utah - no limit for revolving sales

Virginia - no limit for business loans over $5,000, simple interest second mortgages loans, industrial loan, instalment sales, and open end sales and loans

Wisconsin - no limit over $25,000 (no limit on any amount from 11-1-84)

Testimony of the

KANSAS CREDIT UNION LEAGUE

on

HB 2079

AN ACT concerning interest rates

Presented to the

HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

February 1, 1983

by

Marvin C. Umholtz

Governmental Affairs Director

Attachment 4
HSE C&FI COMMITTEE 2/7/83

Mr Chairman, Members of the Committee:

I am Marvin Umholtz, Governmental Affairs Director for the Kansas Credit Union League (KCUL). Our association represents over 90% of the credit unions in Kansas, both state and federally chartered. Credit unions are member-owned cooperative financial institutions. Kansas credit unions serve over 400,000 members.

KCUL supports the passage of HB 2079. Credit unions support the concept of allowing the operation of the marketplace to determine the rate of return on savings and the cost of borrowing.

KCUL POLICY POSITION:

> State and federal law should allow the board of directors of a credit union to have sole authority to set interest rates, both on what credit unions pay their members for savings and charge their members for loans.

Deregulation means letting the marketplace decide what rates will be paid on savings and charged on loans. We believe that if restrictions are removed which now serve only to curtail consumer lending under certain economic conditions, a rate structure will emerge that will be fair to borrowers. The nature of the credit union assures that our borrowing terms will be reasonable in light of market conditions. Members of a credit union -- with the one member, one vote principal -- effectively influence the lending policies established by their elected board of directors.

Although our position statement directs KCUL to support deregulation of loan rate ceilings for credit unions, we realize that historically this Legislature as a whole has been reluctant to do so in the area of consumer lending. In an effort to achieve the possible, our association is supporting HB 2079.

Historically credit unions have been able to offer their members very reasonable loan rates - definitely well below the legal ceilings and often times well below the prevailing market rates. (See attachment I.)

Kansas is not the only state which has addressed interest rate ceilings in recent years. Within the past two years, twelve states have moved to an essentially deregulated loan rate structure for credit union loans to members. California, South Carolina, and Louisiana did so in 1982. This generally means that the CU and the borrower are free to determine rates by contract. (See attachment II.)

In summary, we urge this Committee to act favorably on HB 2709. Thank you Mr. Chairman for the opportunity to address this issue before the Committee. I stand ready to respond to questions at the direction of the chair.

# CREDIT UNION LOAN RATES

## KCUL Survey Responses in Selected Loan Categories

Mean Average: Sum of the rates ÷ number of entries
Mode: The most frequent rate

| LOAN TYPE | Jan. 1983 (sample) | | Jan. 1982 (sample) | | Jan. 1981 (sample) | |
|---|---|---|---|---|---|---|
| Auto/Truck (New) | | | | | | |
| mean | 14.13% | (103) | 14.89% | (84) | 13.77% | (118) |
| mode | 12.00% | | 14.00% | | 12.00% | |
| high | 18.00% | | 18.00% | | 18.00% | |
| low | 9.00% | | 9.00% | | 8.15% | |
| Signature (Unsecured) | | | | | | |
| mean | 15.80% | (98) | 15.86% | (98) | 15.00% | (118) |
| mode | 18.00% | | 18.00% | | 18.00% | |
| high | 21.00% | | 20.00% | | 21.00% | |
| low | 12.00% | | 12.00% | | 8.15% | |
| Home Improvement | | | | | | |
| mean | 15.20% | (79) | 15.69% | (73) | Not Available | |
| mode | 16.00% | | 18.00% | | | |
| high | 21.00% | | 21.00% | | | |
| low | 12.00% | | 12.00% | | | |

## RATE DISTRIBUTION DETAIL
## NEW AUTO/TRUCK

| % Rate Range | # CU's in Sample | % of Total CU's in Sample | |
|---|---|---|---|
| January 1983 | | | National Prime Lending Rate*: 11% |
| 8 - 12.9% | 26 | 25% | |
| 13 - 17.9% | 71 | 69% | |
| 18 + % | 6 | 6% | |
| January 1982 | | | Prime*: 15.75% |
| 8 - 12.9% | 16 | 19% | |
| 13 - 17.9% | 54 | 64% | |
| 18 + % | 14 | 17% | |
| January 1981 | | | Prime*: 20% |
| 8 - 12.9% | 20 | 30% | |
| 13 - 17.9% | 38 | 58% | |
| 18 + % | 8 | 12% | |

*For comparison only, not an indicator of prevailing market rates for consumer loans.

1982

## STATE CREDIT UNION LOAN RATE CEILINGS

### SUMMARY

- As of December 31, 1982, all states had authorized credit unions to charge a loan interest rate in excess of 12% per year. Most of these rate changes were effected legislatively within the last five years.
- Twelve states within the past two years have moved to an essentially deregulated loan rate structure, California, South Carolina, and Louisiana having done so in 1982. This generally means the parties concerned are free to determine loan rates.
- Some of the state rate changes are temporary in nature, due to expire in 1983 or 1984.
- Arkansas and Pennsylvania, the last holdouts on rate relief, joined the rest of the nation in lifting the credit union rate ceiling. Arkansas voters amended the State Constitution to allow lenders to charge up to 17% on consumer loans. Pennsylvania boosted the credit union maximum to 15%.

No interest rate ceiling in credit union act; rate determined by credit union through method indicated:

Arizona -- Board of Directors. [§6-513]

California -- Board of Directors. [§15000]

Connecticut -- Set by board of directors, but requires prior approval of Bank Commissioner. Commissioner may not approve rates exceeding those allowed a federal credit union or federally insured credit union. Under "most favored lender" doctrine, federally insured credit unions in Connecticut ruled to be not subject to any interest rate limitations. Non-federally insured credit unions also ruled to be unlimited as to rates. [§36-206(a), §37-9; Declaratory Ruling of Bank Commissioner, 8/10/81]

Illinois -- Board of Directors. [§4447(1)]

Louisiana -- Board of Directors, subject to Commissioner approval. [§6:654(A)]

Source: CUNA State Governmental Affairs
January 1983 (Rev.)

New Hampshire -- By the bylaws or vote of the members. [§394.16]

Oregon -- Board of Directors. [§723.296]

Puerto Rico -- Board of Directors. [§16]

Rate determined by agreement of parties; subject to indicated restrictions:

Montana -- Credit unions exempt from interest rate limit in credit union act until July 1, 1983. [§31-1-106]

Nevada -- No restrictions in act. [§678.710]

New Jersey -- 30% ceiling in criminal usury statute. [§17:13-42, §2c:21-19]

New Mexico -- Certain disclosures to borrowers must be made; reverts to 1-1/3% per month July 1, 1983. [§58-11-17]

New York -- Until June 30, 1983 subject only to ~~30%~~ 25% ceiling in state's criminal usury statute. [§453(5a), §190.40]

Ohio -- An alternative to credit union act rate ceiling permitted until January 1, 1985, not to exceed 25% annually. [§1733.251]

Virginia -- Installment loans not limited. Rate on non-installment loans not to exceed 1-1/2% per month. [§6.1-330.18]

Interest rate indexed to specified market rate indicator:

Alabama -- May charge rates under Consumer Code, or 2% above prime rate of three largest New York banks. If open-end credit, the maximum finance charge is 1-3/4% per month on first $750 and 1-1/2% per month on excess. A surcharge of 2% of amount financed, not to exceed $20, also allowed. Another alternate allows a financial institution to charge the same rate authorized any other financial institution in state. [L. 1982, Act 82-271]

Minnesota -- 12%, or 4-1/2% above the Federal Reserve discount rate, whichever is greater. [§52.14, §48.195]

Tennessee -- 18%, or 5% above the Federal Reserve discount rate or the rate federal credit unions are authorized, whichever is greater [§45-4-602]

Texas -- Interest charged may equal twice the average rate for 26-week treasury bills during the preceding week, not to exceed 24%. [§7.01]

Washington -- Credit unions may charge interest rates up to 4% above the rate on Treasury bills during the preceding month. [Laws of 1981, H. 143]

Interest rate not to exceed 1-1/4% per month (15% per annum) on unpaid balance:

Alaska -- Unless higher rate provided by regulation. [§06.45.060A]

Georgia -- Or rates allowed federal credit unions, whichever is greater. [§§41A-3109(a), 41A-102]

Michigan -- 16-1/2% on motor vehicle loans. [§490.14]

Pennsylvania -- [§12319]

Interest rate not to exceed 1-1/2% per month (18% per annum) on unpaid balance:

| | | | |
|---|---|---|---|
| Florida | [§657.14] | Nebraska | [§21-1773(6)] |
| Hawaii | [§410-15(a)] | North Dakota | [6-06-18] |
| Kentucky | [§290.200] | West Virginia | [31-10-16] |
| Mississippi | [81-13-39] | | |

Interest rate maximum is 12% per annum unless a higher rate is approved by regulatory authority:

North Carolina -- Authorized rate cannot exceed 18%. (Supervisor set rate at 18%). [§54-109.65]

Vermont -- Supervisor set rate at 18 to 24%. [§2078(a)]

Interest rate subject to indicated maximum in state's consumer credit code:

Alabama -- May charge rates under Alabama Consumer Credit Code or alternate rate indexed to prime rate. (See page 2)

Colorado -- For closed-end credit, either 36% on unpaid balance up to $630 and 21% on part of unpaid balance over $630 up to $2,100, or 21% on total unpaid balance. For open-end credit, 21% on total unpaid balance of principal. [§11-30-114; §5-3-508(2),(3)]

Idaho -- For closed-end credit, either 36% on part of unpaid balance up to $300, 24% on part of unpaid balance over $300 up to $1,000; and 18% on part of unpaid balance over $1,000, or 21% on the entire unpaid balance. For open-end credit union, 18% of unpaid balance. (§§28-33-508, 28-33-301, 26-2116(c)]

Indiana -- For open-end credit, either 36% on part of unpaid balance up to $540; 21% on part of unpaid balance over $540 up to $1,800; and 15% on part of unpaid balance over $1,800 or 18% on entire unpaid balance, whichever is greater. For closed-end credit, either 36% on part of unpaid balance up to $540; 21% on part over $540 up to $1,800, and 15% on part of unpaid balance over $1,800, or 21% on entire unpaid balance, whichever is greater. [§§24-4.5-3-508, 28-7-1-16(b)]

Iowa -- Rate ceilings are: For closed-end credit, 21% per year on the unpaid balance. For new car loans, 21% and for loans on used cars with maturities over 2 years, 24%. For open-end credit, 18% on part of unpaid balance up to $500 and 15% on remainder. On real estate loans entirely lifted. [§537.2401, 2402]

Kansas -- Code allows 18% on balances under $1,000 and 14.45% on amounts exceeding $1,000. For any consumer loan an alternative 21% interest ceiling on the entire outstanding balance is in effect until July 1, 1983. Credit unions with a small lenders license may alternatively charge: 36% on the unpaid balance up to $300, 21% on the unpaid balance over $300 up to $1,000, and 14.45% on the unpaid balance over $1,000. The dollar amounts for licensed lenders (above) have been indexed upward by regulation to be $540 and $1,800 respectively. [K.S.A. 16a-2-401; 16a 2-401a; K.A.R. 75-6-24.]

Maine -- For both open and closed-end credit, either 30% on part of unpaid balance up to $300, 21% on part of unpaid balance over $300 up to $1,000, and 15% on part of unpaid balance over $1,000, or 18% on the unpaid balance, whichever is greater. [9-A, 2.401(2), 9-B-842(2)(R)]

Oklahoma -- For both open and closed-end credit, either 30% on part of unpaid balance up to $300, 21% on part of unpaid balance over $300 up to $1,000, and 15% on part of unpaid balance over $1,000, or 21% of unpaid balance, whichever is greater.
For loans involving a cash advance of $100 or less, a lender may charge in lieu of the above rates:
a) on an advance up to $29.99 a charge of $1.00 for every $5.00 advanced;
b) on an advance over $29.99 up to $35.00, a charge of 1/10 the amount advanced plus a handling charge of $3.00 per month;
c) on an advance of more than $35.00 up to $70.00, a charge of 1/10 the advance plus a handling charge of $3.50 per month;
d) on an advance of more than $70.00 up to $100.00, a charge of 1/10 the advance, plus a handling charge of $4.00. [§14A-3.508(A), 14A-3.508(B)]

South Carolina -- A flat 18% per annum on unpaid balances; or 36% on balances up to $300; 21% from $300 to $1,000; and 15% over $1,000. Alternative: Lender may charge over 18% by filing rates with Department of Consumer Affairs and posting them at business places. [§34-27-70]

Utah -- For both open and closed-end credit, either 36% on part of unpaid balance up to $660, 21% on part of unpaid balance over $660 up to $2,200; and 15% on unpaid balance over $2,200, or 18% on unpaid balance, whichever is greater. Upon a finding that these charges are below the prevailing market rates and unduly restrict the availability of credit to consumers, the commissioner may increase the

maximum finance charge to a rate not over 10% above the average yield on 2-year U.S. securities during the prior 5 weeks. [70B-3-508, 7-9-20(e), 7-1-306]

Wisconsin -- The greater of 18% per year or 6% in excess of interest rate on 6-month U.S. Treasury bills. On open-end consumer loans, parties may agree to higher rate if yield on 2-year U.S. government securities exceeds 15% per year on 5 successive Thursdays. For loans and renewals made on or after November 1, 1981 and before November 1, 1984 or after October 31, 1987, state-chartered credit unions can charge the same rate of interest as federal credit unions. [§422.201, 138.041(2)]

Interest rate subject to state's usury law:

Massachusetts -- The rate on loans of $6,000 or less cannot exceed the limit established by the small loans regulatory board pursuant to Ch. 140, §100. The maximum rate of charge for any loan of $6,000 or less is 23% per annum on the unpaid balance, according to the actuarial method, plus an administrative fee of $20 upon the granting of the loan. [Ch. 140,100,114A, 114B; Ruling Deputy Commissioner of Banks, Re: Order of Small Loans Regulatory Board, eff. 10/17/80]

Missouri -- On "small loans" (i.e., loans of $2,500 or less, not made as permitted by other statutes, and not secured by a lien on real estate, non-processed farm products, livestock, farm machinery or crops) the maximum interest rate is: 26.6% per annum on the first $800; 15% per annum on the next $1,700. The maximum rate is 10% per annum on the balance over $2,500. [§408.100, 408.190]

Rhode Island -- Maximum of 21% per year. [§6-26-2]

Other Acts:

Arkansas -- Interest rate may not exceed that permitted by the state constitution (17% on consumer loans). [§67-913(c), §67-916(1)]

Maryland -- The permanent rate is 1-1/2% per month on the unpaid balance. But until July 1, 1985, a credit union may charge up to 2% per month on the unpaid balance. If the rate exceeds 1-1/2% per month, certain restrictions apply in the Commercial Law Article of a consumer protection nature. [§6-507]

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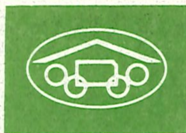
Federal pre-emption of state rate ceilings:

A 1980 Federal law provides for pre-emption of any state constitutional or statutory usury rate provision. A credit union insured by the National CU Administration may charge an interest rate up to 1% in excess of the discount rate on 90-day commercial paper at the Federal Reserve bank in its district or the rate allowed by its state law, whichever is greater. [12USC 205(g)]

Federal Credit Unions -- Federal act provides a maximum rate of 15% per annum on the unpaid balance. However, the NCUA Board may authorize a higher rate for periods up to 18 months under certain conditions. The Board has set 21% per annum as the maximum rate until September 4, 1983. [12USC§107(5), 12CRF§701.21-1A]



KANSAS MANUFACTURED HOUSING INSTITUTE
100 East Ninth Street • Suite 205 • Topeka, Kansas 66612 • (913) 357-5256

The Kansas Manufactured Housing Institute is a trade association representing all facets of the manufactured housing industry in Kansas, i.e. manufacturers, dealers, suppliers, transporters, mobile home park owners and managers, financial and insurance institutions.

Our interest in H.B. 2079 stems from our position in the business community and our desire to continue to do business. Our interest in financial affairs is much the same as many of you indicated in your self-introductions in this committee a couple of weeks ago--we borrow or assist people in borrowing lots of money! If the 21% ceiling on interest rates for consumer loans is allowed to expire in July, 1983, a return to the original ceiling of 14.5% could bring the manufactured housing business in Kansas to a standstill, or at least bring about a tremendous slow-down.

As I'm sure you are all aware, today's housing market is putting more and more low and middle income people in the position where a manufactured home is the only affordable home, if they choose to own instead of rent. For many of these people, a consumer loan is the only available means of financing such a home. High interest rates, of course, make the choice of purchase much more difficult but when these people are further placed in the position where they cannot even choose to pay the high interest rates because of statutorily imposed limits on the amount of interest a financial institution can charge, we are, in essence placing yet another stumbling block in the path of those who are most in need of an affordable home.

Certainly, high interest rates have a negative effect on sales but our dealer members have experienced some periods in the past two years when the statutory ceiling prohibited people from buying homes because financial institutions simply could not afford to provide loans below those rates.

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This experience of the past two years tells us that a ceiling on interest rates does not necessarily serve to keep interest rates at what is considered a proper or desirable level. Obviously, that is determined by the business climate--rates rise and fall as the market place dictates, not as the statutes dictate.

A poll of dealer members of KMHI indicates that they are currently experiencing interest rates ranging from 13.5 to 19 percent. We hope that the lower rates will continue, but there are certainly no guarantees and we certainly have not reached a level where re-imposition of the old ceiling of 14.5% would be adequate. We would not like to see our already depressed economy thrown into a further decline if interest rates should remain at the current level or even rise again after July 1, 1983, with the Legislature having failed to act to extend the 21% ceiling.

We understand the concern about where we are going with all the changes currently in progress in the financial community, both on the state and national scene--we admit that we do not understand all the changes taking place nor do we claim to be able to forsee what these changes predict for the future. For this reason, we would be pleased to see the Legislature approve an extension of the current 21% ceiling on consumer loan interest rates for at least one year, together with a mandate that an interim study be made of the entire UCCC.

We believe that ours is an important segment of the economy of this state and we know that we have potential homeowners in need of our product, ready and willing to purchase if financing can be available.

On behalf of the manufactured housing industry and these potential homebuyers, who want to purchase our product, we will appreciate

your consideration of an extension of the 21% ceiling on consumer loans for a period of time during which the entire subject of consumer credit could be thoroughly studied by the Legislature.

# Legislative Testimony

Kansas Association of Commerce and Industry

500 First National Tower, One Townsite Plaza Topeka, Kansas 66603 A/C 913 357-6321

KANSAS ASSOCIATION OF COMMERCE AND INDUSTRY

Testimony Before the

HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

HB 2079 February 1, 1983

Mr. Chairman and Members of the Committee:

My name is Bud Grant and I am Executive Director of the Kansas Retail Council, a major division of the Kansas Association of Commerce and Industry. I appreciate the opportunity of appearing before the Committee today to discuss with you House Bill 2079.

The Kansas Association of Commerce and Industry (KACI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KACI is comprised of more than 3,200 businesses plus 215 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KACI's members having less than 25 employees, and 86% having less than 100 employees.

The KACI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

Some 15 states have now eliminated statutory ceilings on open-end credit, with the states of South Carolina, South Dakota, and Virginia joining the group in 1982.

- MORE -

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There are two factors which I think are important for the Committee to consider in relation to open-end credit and House Bill 2079. The first is the cost to the retailer of providing revolving credit, and the many elements of that cost; and second, the history, where available, of what's happened to interest rates in those 15 states which have now eliminated the ceilings.

A decade ago, with the prime rate in the area of 8% and other expenses at a fraction of their present cost, retailers commissioned a study of the cost of credit by Touche, Ross and Company. That independent study indicated that retailers were then unable to recover their costs of extending revolving credit at a maximum finance charge rate of 18%. If an 18% rate was insufficient then, it is evident that even higher rates would be insufficient now.

The two tables set forth below are illustrative. Table A identifies the various major elements comprising the cost of revolving credit in their proportion to the whole. Table B shows some of these cost factors for 1972 presented by way of comparison to their present levels.

TABLE A

| Touch, Ross Report Cost Factor | 1972 Percent of Total Cost of Credit |
|---|---|
| 1. Payroll | 29% |
| 2. Postage | 5% |
| 3. Cost of money | 36% |
| 4. All other expenses (bad debt loss, communication, occupancy, etc.) | 30% |

## TABLE B

| Specific Credit Cost Factor | 1972 | 1983 |
|---|---|---|
| 1. Minimum wage | $1.60 | $3.35 |
| 2. Social Security tax rate | 5.20% | 6.70% |
| 3. Social Security maximum income | $9,000 | $35,700 |
| 4. First Class Postage | 8¢ | 20¢ |
| 5. Prime Rate (annual average) | 8% | 14.8% (1982) |

Probably the most important factor that I will ask the Committee to recognize here today is the fact that the prime rate, whether it be high or low, is only one of the many factors that make up the cost of offering revolving credit. As you can see from the Touche, Ross study in Table A, the cost of money represented only 36% of the total cost of providing credit in 1972. While the prime rate may have been on a roller coaster ride since 1972 that has not been the case of the other cost factors which are shown in Table B. They have been steadily increasing. When the U.S. Postal Commission increased the cost of first class mail from 15¢ to 18¢ several years ago, it increased credit costs to the Penney Company $5.5 million. Please remember that retailers process charges, payments and returns each month, post them to your account, each transaction being handled separately, whether a small retailer operating a manual system or a large retailer using data processing and computers.

The second item which I suggested you should consider dealt with the question or what has happened in those 15 states which have now eliminated open-end credit rate ceilings. Let me quote very briefly from testimony before the New York Assembly

Bank's Committee by Mr. James A. Quaremba, President and Chief Executive Officer of the New York State Council of Retail Merchants. New York is one of the 15 states which has eliminated credit rate ceilings and did so 1980. I quote "At the outset I should like to congratulate you on the success of your efforts in formulating and enacting the Omnibus Banking Law of 1980. It took both courage and wisdom to deregulate credit rate ceilings in 1980 despite the dire prediction of abuse offered by some local critics. Jobs that would have gone elsewhere have been retained in New York. Consumers who want to use credit have been given a wide variety of credit options from which to choose. More credit has been made available to more consumers. All of this has been achieved at a time of economic distress characterized by widely fluctuating variations in the cost money to lenders.

You scrapped the arbitrary old rate limitation statute just in time to avoid the chaos it would have caused New York and New Yorkers. You have substituted a competition-oriented free market approach which has well served the state, consumer, and business. Other states have followed your example. You have good reason to be proud of this legislation . . . . . . . . . ."

As to how retailers and their customers have been effected by credit rate deregulation in New York, Mr. Quaremba quotes two studies which identified the following important effects of the 1980 New York law:

1. Whereas prior to 1980 retail credit rates were almost all set at the maximum statutory limitation, New York consumers can now choose from a wide variety of rates made available by impeding retailers and banks. The McAlister, Dunkelberg study found a total of nine rate structures ranging from 12% to 24%.

2. While some major metropolitan area retail corporations have changed their terms to provide for finance charge rates ranging from 18% to 21%, for competitive reasons others have chosen to keep their maximum rate at 18%.

3. The typical retail creditor does not charge an annual fee for its proprietory card account.

4. Despite the weakening economy in New York and the nation in recent years, retailers continue to make credit available to a broad base of consumers.

As can best be determined the other 14 states which have eliminated credit rate ceilings are currently offering open credit at the rates indicated.

Arizona - 21% ($750), 18% (over)
Delaware - 21%
Illinois - 21%
Kentucky - 21%
Montana - 18%
Nevada - 21%
New Hampshire - 21%
New Jersey - 21%
New Mexico - 21%
Oregon - 21%
South Carolina - 21% ($650), 18% (over)
South Dakota - 21%
Utah - 21%
Virginia - 21%

I will close with a quote from another study which was conducted in 1972 by the National Commission on Consumer Finance. This is a 290-page study on consumer credit in the United States and tackles the problem of rate ceilings head-on. Here is partially what they say and I quote from page 107: "There is no logical reason to select

any type of product or service sold by a retailer and legally require it to be sold at a loss. When credit is selected as a required loss leader the burden of subsidy falls primarily on cash buyers, some of whom may have been unable to obtain credit. Thus state laws that put the price for credit below competitive rates are forcing both the wealthy and the less affluent, who do not use routine credit, to subsidize the use of credit by others."

Retailers think it is unfair to make customers pay for anything, goods or services, they do not use. Those credit expenses which exceed credit revenues must be recovered in the cash selling price of the goods. Thus, the cash customer is obliged to subsidize the credit customer when credit revenues mandated by law are inadequate to cover credit expenses. I sincerely hope the Committee will take the steps necessary to return fairness to all involved in the retail credit chain, the credit customer, the cash customer, and the retailer.

Once again I want to thank you for giving me the opportunity to appear before the Committee today.

PROPOSED AMENDMENT TO HB NO. 2072

Be amended:

On page 1, in line 30, by inserting after the period, a new sentence to read as follows: "The card issuer shall provide a telephone number to be called by the cardholder in the event of loss or theft of the credit card."

Attachment 7
HSE C&FI COMMITTEE 2/7/83