Approved 1-26-84
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL and FINANCIAL INSTITUTIONS.

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

3:30 ~~a.m.~~/p.m. on January 24, 1984 in room 527-S of the Capitol.

All members were present except: Representative Ken Francisco

Committee staff present: Bill Wolff, Research Department
Myrta Anderson, Research Department
Bruce Kinzie, Revisor of Statutes Office
Mitchell Lousch, Intern
Virginia Conard, Committee Secretary

Conferees appearing before the committee:

Stanley L. Lind, Counsel & Secretary of Ks Assn of Finance Co's.
Marvin Umholtz, Vice President, Credit Union Dev for Kansas Credit Union League (KCUL)
Bud Grant, Executive Director, Kansas Retail Council of Ks Assoc of Commerce and Industry.
Jim Maag, Kansas Bankers Association
Margie Braden, Kansas Manufactured Housing Institute

Chairman Dyck opened the second meeting of the 1984 legislative session with an introduction of the committee's newest member, Representative Ed Rogers of Wichita. Chairman Dyck mentioned that he probably would not be announcing dates of future meetings and thus would encourage members to check their agendas.

Stanley L. Lind was the first conferee to appear before the committee on HB2639, which he said his association endorses with some suggested amendments. For details see Attachment I. In his testimony he referred to his statement before the 1983 interim C&FI Committee. See Attachment II.

In giving his testimony on HB2639, Marvin Ulmholtz stated that HB2639 is a vehicle for discussion and not an end in itself. For details of his testimony see Attachment III.

The third conferee Bud Grant stated that his organization is in support of HB2639. For details of Mr. Grant's testimony see Attachment IV.

Fourth conferee Jim Maag said, "We can endorse most of the comments that have already been made." Mr. Maag pointed out that the State Affairs Committee of the KBA and the KBA Governing Counsel have endorsed most of the amendments to the UCCC contained in HB2639. For further details of his testimony see Attachment V.

The fifth and final conferee Margie Braden stated that her organization supported sound legislation for the growth of the housing industry which includes interest rates which will allow for the availability of financing for homes.

Representative Homer Jarchow moved that the minutes of the January 19, 1984, meeting be approved. Representative David Louis seconded the motion. Motion carried.

The meeting adjourned at 4:50 p.m.

The next meeting is Thursday, January 26, 1984.

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.

DATE 1-24-84

GUEST REGISTER

HOUSE

COMMERCIAL & FINANCIAL INSTITUTIONS

NAME	ORGANIZATION	ADDRESS
Pat Alexander	First National Bank of Lawrence	Lawrence Ks 66044
Gail Clum	Merchants Nat. Bank	Topeka Ks.
Bud Grant	KACI	"
Jim Sullins	Ks. Motor Car Dealers Assn	"
Jerel Wright	KCUL	"
Marvin Umholtz	KCUL	"
Jim McBride	United Way	"
Don Phelps	Cons. Cr. Comm.	Lawrence
Mel Bath	" " "	Topeka
John Peterson	Ks Assn for Economic Growth	Topeka
[illegible]	KMHI	Topeka
[illegible]	Commerce Bank + Trust	Topeka
Phil Anderson	Budget Div	"
Marmon [illegible]	AAM	Healy
Don Steffes	M.B.T. M.P.	McPherson
Harold Stones	KBA	Topeka
Tom Wilder	KLSI	Topeka
Jim Turner	KLSI	Topeka
[illegible]	Legis Intern	Topeka
Tom Ragan	KAFC	Topeka
Stan Lind	" "	KC.
[illegible]	KANW	Topeka

Attachment I

Statement on H.B. 2639

by

Stanley L. Lind, Counsel & Secretary

of the

Kansas Assn. of Finance Cos.

before the

House Commercial & Financial Institutions Committee

January ~~25~~ 24, 1984

Atch. I
1-24-84

Mr. Chairman and Members of the Committee:

I am Stanley L. Lind, Counsel and Secretary of the Kansas Assn. of Finance Cos., the state trade association for consumer finance companies. I appear here upon behalf of our association to endorse H.B. 2639 with some suggested amendments.

Before discussing the bill itself, I would like to tell the committee about how the finance companies have been doing financially over these last few years of a roller-coaster economy which has seen the prime rate go to the unbelievable high of 21.5%. The table below is taken from the 1982 Annual Report published by the Consumer Credit Commissioner.

KANSAS SUPPLEMENTAL MEASUREMENT OF NET EARNINGS FROM CONSUMER LOAN BUSINESS
For the Years 1977 Through 1982

NET EARNINGS AS A PERCENT OF AVERAGE ASSETS	1982	1981	1980	1979	1978	1977
1. Average assets (per annual report) . . .	$332,977,545	$340,161,392	$341,526,655	$311,802,191	$267,711,646	$237,821,91[illegible]
2. Net earnings from consumer loan business finance charges (after interest and taxes)	(688,079)	(1,007,108)	1,238,090	4,454,381	4,509,340	4,564,49[illegible]

You will note on the first line that the average assets used by the consumer finance companies have grown from approximately $238 million in 1977 to $333 million in 1982. This is certainly an indication that these companies have continued to increase the amount of funds that they are making available to the public in Kansas -and- the trend toward larger loans.

However, you will note that on the second line, that while for the year 1977 they had net earnings from finance charges of approximately $4.5 million after interest and taxes on assets of $238 million, that for the year 1981 there was a loss of a little over $1 million on $340 million assets -and- for 1982 - with assets of $333 million, there was a loss of $688 thousands of dollars. For 1983, I predict a profit of up to one-half million.

Another set of figures taken from the 1982 Annual Report shows the average cost per account per month for licensed lenders for the following years:

Year	Cost	Year	Cost
1982	45.77	1979	27.08
1981	35.99	1978	25.39
1980	33.51	1977	22.66

which is a 100% increase in the expense of making, maintaining and collecting a loan in Kansas in the last six years.

By reason of the Cost-of-Living Index provision of the UCCC, which applies to loans only, there has been an 80% increase in the dollar brackets since 1975. However, the 20% difference between the rise in expenses and the rise in the dollar brackets, is the part from which the finance company's profit comes. Another reason why the licensed lender suffers is that the Cost-of-Living Index in the UCCC is changed only every two years. The foregoing figures show some of the reasons why finance companies have been loosing money and closing offices.

In 1978 and '79, there were 350 licensees in Kansas. While the 1982 Annual Report states there are 226 licenses, when one deducts the obvious duplications and companies that are not really in the consumer loan business, we have approximately 190 actual

licensed lenders at the most. This represents a 45% reduction in 3 years time in the number of offices that serve the people of Kansas. It is not an indication of a growing business -and- it certainly indicates a reduction of service and availability to the public.

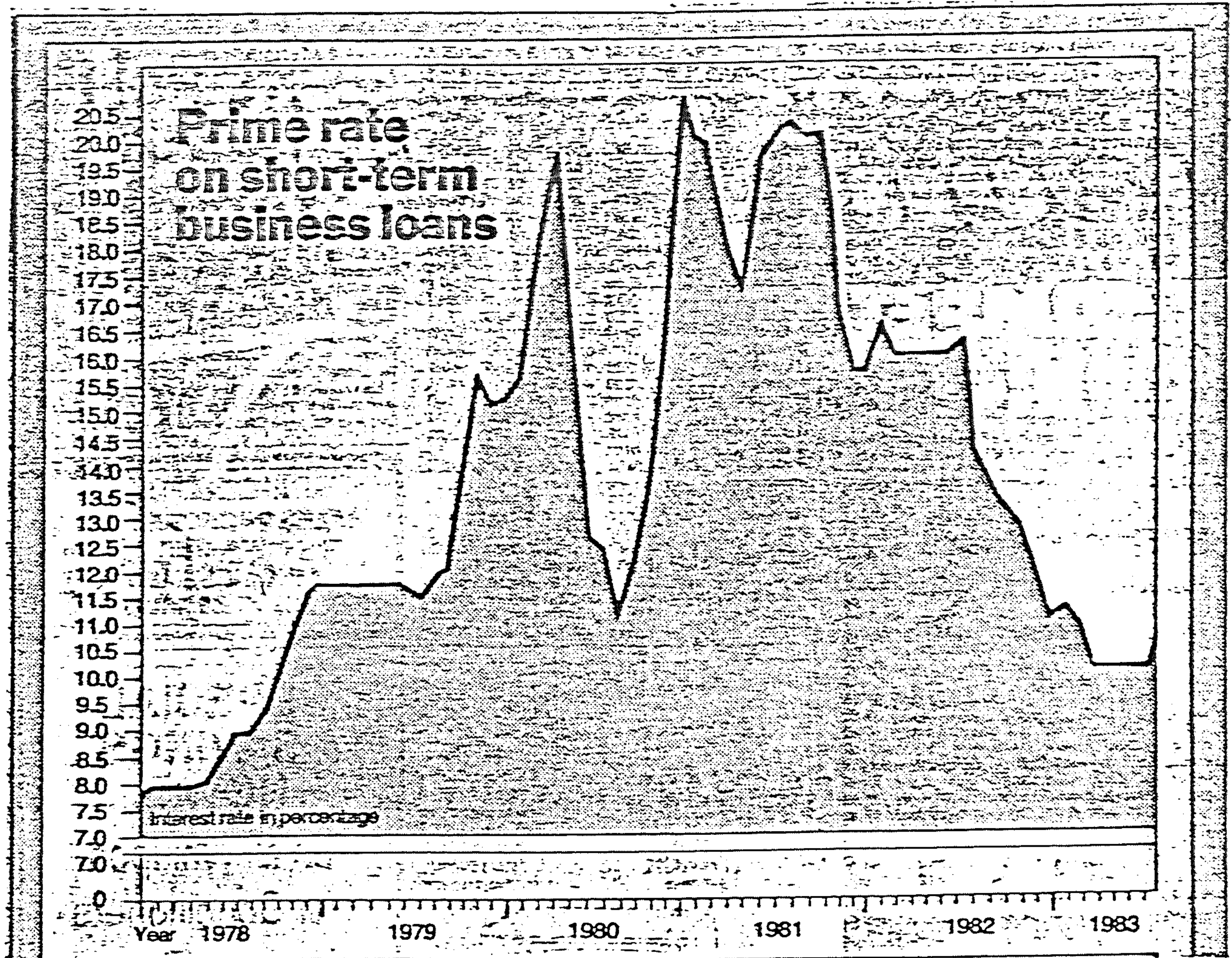
In 1979, the monthly average number of loans outstanding was 185,293. In 1982, there were 121,154. This constitutes a 35% drop in the number of persons being served in a 3 year period.

In 1977 - the monthly average loan outstanding was $1410.23. In 1982 - this was $2651.82. This represents an 80% increase in the size of the average loan outstanding in 6 years. Obviously, it represents an attempt by lenders to make large loans in order to keep the largest amount invested at the least possible expense.

Just as obviously - it means, fewer loans being made to fewer people.

All of these figures go to illustrate that the business of lending money is like any other. If expenses go up - the price of the product has to be increased accordingly, consistent with an efficient operation of the business.

Another factor which has had a drastic effect upon the economy as a whole and certainly finance companies in particular has been the roller-coaster actions of the prime rate as can bee seen by the graph shown on the next page.


Prime rate on short-term business loans
20.5
20.0
19.5
19.0
18.5
18.0
17.5
17.0
16.5
16.0
15.5
15.0
14.5
14.0
13.5
13.0
12.5
12.0
11.5
11.0
10.5
10.0
9.5
9.0
8.5
8.0
7.5
7.0
0
Interest rate in percentage
Year 1978
1979
1980
1981
1982
1983

I have taken the time to review the financial conditions of finance companies in order to put into perspective the basis upon which our finance association entered into the 1983 Interim Study, and to review some of the facts which were furnished to the Interim Study Committee.

While 1983 was a year of declining interest rates, the Interim Study was the first time since the Uniform Consumer Credit Code was enacted that the Legislature had studied or considered the subject in other than a crisis situation. All of the presentations made by the creditor groups appearing before the Interim Committee were predicated upon the basis that rate legislation for the present was not needed -but- that some method had to be devised whereby interest rates could rise when the prime goes thru the ceiling and the legislature is not in session. One of the statistics given to the Study Committee was that there had been approximately 35 changes in the prime rate from the 1930's to 1979, but that there had been over 35 changes since 1979 to the present in the prime rate. It was from this standpoint that the Interim Study Committee approached the subject in my observation -and- in particular in regard to the rate it proposed.

Having summarized the background upon which the Study Committee worked, at least from my viewpoint, I would like to outline the way H.B. 2639 attempts to answer some of the concerns that I have mentioned.

a - To provide for a means by which rates could be changed in response to market conditions, it recommended replacing the present three-step rate section with a single maximum rate which would permit creditors to adjust up -or- down, but below the maximum, as conditions changed -and- for simplicity.

b - With a single maximum rate, the use of the Consumer Price Index provision in the UCCC to adjust the dollar brackets was no longer thought needed and it was recommended to repeal this section.

c - Because the single maximum rate of 30% would reduce the rate on small loans by as much as 6% per annum, a 3% origination fee was recommended on all loans under $1000 to compensate for the rate reduction of up to 6%.

d - In recognizing that there are some inequities in the Rule of 78's, the method used to compute refunds on precomputed contracts, there was also recognized that the recommendation to abolish this rule would cause a loss of income to creditors.

e - To off-set the loss of the Rule of 78's to creditors -and- to permit the market conditions to determine the rates for consumer credit above a level where no necessitous person could be thought to be involved, it recommended reducing the rate ceiling under the UCCC from $25000 to $10000 - which would be deregulation over $10,000.

STATES THAT HAVE DEREGULATED
CONSUMER CREDIT INTEREST RATES
WHOLLY OR PARTIALLY AS OF JUNE 1, 1983
AS COMPILED BY THE AMERICAN FINANCIAL
SERVICES ASSOCIATION, WASHINGTON D. C.

	State	Limit
1.	Alaska	no limit over $10,000
2.	Arizona	no limit for banks, credit unions or savings associations, but limit on finance companies
3.	California	no limit over $5000 after 1-1-84
4.	Connecticut	no limit over $5000 except for licensed lenders which have a 24% maximum
5.	Delaware	no limit over $5000
6.	Florida	no limit over $2500
7.	Georgia	no limit over $3000
8.	Illinois	no limit
9.	Nevada	no limit
10.	New Mexico	no limit
11.	New York	no limit over $4000 til 5-30-87
12.	Oregon	no limit
13.	South Carolina	no limit
14.	South Dakota	no limit
15.	Wisconsin	no limit from 11-1-84 to 10-31-87

OUR RECOMMENDATIONS FOR THE AMENDMENT OF H.B. 2639

While all creditor groups did state to the Study Committee the need for a rate which would permit the extension of credit even with a 21.5% prime rate, only the S & L League and Dr. Morse of K-State recommended enacting a single maximum statement of the rate.

Our Association made a statement in opposition to this concept. In essence, the 30% is too low for our smaller loans, and, not needed for our larger loans. It was because we showed the Study Committee by charts that the 30% rate would have the effect of reducing the rate on loans below $1300 -and- thereby lessening the liklihood of creditors making such loans - that the committee adopted the 3% origination fee. (Refer to the charts in my Interim Study Presentation)

While we asked the Study Committee for the 3% origination fee to off-set the rate reduction of up to 6% with the adoption of the 30% maximum rate, at the same time we also stated:

". . . We ask that the committee reconsider its actions as to the [30% rate] -and- return to the present blended rates. We think that the maximum single rate of 30%, while seemingly a step toward simplicity, actually complicates the process. This can be seen by the following factors:

1. In order to provide a rate which will induce lenders to lend in the small loan areas, a percentage rate would have to be used which is probably politically impermissable -and- too high for larger loans.
2. If the single maximum rate is too low for the small loan field, then service charges or fees will have to be added in order to induce lenders to lend - which destroys the attempted simplicity.
3. The single rate concept ignores the fact that Truth-in-Lending requires the APR expressed as a single rate be shown in a conspicuous manner on every consumer credit contract, regardless as to how the interest may be computed.
4. The single rate concept ignores the recommendation made to this committee that all contracts be required to contain a provision that the APR disclosed on all consumer credit transactions be considered as the contract rate regardless as to whether it was a blended rate or not.
5. The single rate concept ignores the fact that in the 70 years history of small loan legislation, there has not yet been developed an acceptable substitute for the blended or graduated rates concept."

Because we are convinced that the above reasons given the Study Committee were valid then -and- now - we ask that this committee amend H.B. 2639 as follows:

1. Delete all references to the 30% maximum rate and the 3% origination fee.
2. Leave the present step-rates in the loan section at 16a-2-401.
3. Amend the instalment sales rate section of 16a-2-201 so that these rates are identical to the loan rates as they are in most UCCC states.
4. Make the C.P.I. index section 16a-2-401a. applicable to the instalment sales section of 16a-2-201.
5. Reduce the alternative rate of 21% to 18%, and provide for an index based upon the 10th Federal Reserve District Bank's Discount rate to banks. This would mean that with each charge up -or- down of the discount rate, the alternative rate would change in an identical manner.
6. Provide that for all purposes except the initial rate computation, that the Annual Percentage Rate stated in all consumer contracts be considered as the contract rate.

RATIONALE' FOR OUR PROPOSED AMENDMENTS

1. My prior discussion of the 30% maximum rate, I think covers our recommendations as to its deletion as well as the 3% origination fee -and- the return to the present step rates under the consumer loan section.

2. The recommendation to make the instalment sales rates in 16a-2-201 identical to the loan rates in 16a-2-401 is supported by the following:

a - Creditors no longer make distinctions as to the type of credit, but as to the return yielded by the credit. Because of the lesser instalment sales rates in Kansas, financial institutions do not buy instalment sales contracts on the smaller ticket items - unless the dealer pays an additional discount - which is included in the sales price.

b - Every UCCC Code state except Kansas has made its instalment sales rates equal to the instalment loan rates. (See chart on next page)

c - The National Association of Commissioners on Uniform State Laws, the drafting organization of the Uniform Consumer Credit Code, originally proposed that the C.P.I. index be made applicable to both the loan section and the instalment sales sections -and- as seen by the chart on the following page, all Code states have done so except Kansas, and Wyoming.

COMPARISON OF THE KANSAS UNIFORM CONSUMER CREDIT CODE

LOAN RATES WITH THE OTHER UCCC STATES

JUNE 1, 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: 6-3o-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	Deregulated	Deregulated	Deregulated	Deregulated	Deregulated
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 $630	21% to $2100	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	19.6% till 1985	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

JUNE 1, 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	Deregulated	Deregulated	Deregulated	Deregulated	Deregulated
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 $630	21% to $2100	15% to $45000	21%	21%
SOUTH CAROLINA	Deregulated	Deregulated	Deregulated	Deregulated	Deregulated
UTAH	36% to $840	21% to $2800	15% to $70,000	19.6% till 1985	No limit
WYOMING	36% to $300	21% to $1000	15% to $25000	21%	21%

d - Reducing the present alternate rate of 21% to 18% -and- base its movement on an index.

- Historically, the alternative rate of the UCCC has been 18%. However, most Code states raised this to 21% in these last few years of roller-coaster prime rates.
- The Kansas Legislature has amended the alternative rate provision in 1982 and 1983 by raising it to 21% and extending its sunset.
- Since the Legislature is in session for three months out of twelve, a means by which a change can be made during the other nine months is needed to account for market conditions.
- The Congress, has utilized the Federal Reserve Discount Window Rate as a basis for a fluctuating rate for commercial and agricultural loans, which statute is still in effect in all states where the states have not superceded it.
- The use of this same rate as an index upon which the alternative rate would vary in accordance with market conditions would obviate the necessity of having to ask the Legislature to change the alternate rate.
- For examples of the discount rate fluctuations, see the following page. The column entitled "Discount Rate" is the column of figures to be observed. The other columns merely show the rate under the federal statute where applicable.

TENTH FEDERAL RESERVE DISTRICT
DISCOUNT RATE AND SURCHARGE

			Discount Rate	+	Surcharge	+	5	=	Max. Rate
March	17	1980	13		3		5	=	21%
May	9	1980	13		0		5	=	18%
May	29	1980	12		0		5	=	17%
June	13	1980	11		0		5	=	16%
July	28	1980	10		0		5	=	15%
September	25	1980	11		0		5	=	16%
November	17	1980	12		2		5	=	19%
December	5	1980	13		3		5	=	21%
May	5	1981	14		4		5	=	23%
September	22	1981	14		3		5	=	22%
October	13	1981	14		2		5	=	21%
November	3	1981	13		2		5	=	20%
November	20	1981	13		0		5	=	18%
December	4	1981	12		0		5	=	17%
July	20	1982	11½		0		5	=	16½%
August	2	1982	11		0		5	=	16%
August	16	1982	10½		0		5	=	15½%
August	27	1982	10		0		5	=	15%
October	12	1982	9½		0		5	=	14½%
November	22	1982	9		0		5	=	14%
December	15	1982	8½		0		5	=	13½%

(It's been the same rate to date.)

e - Require that the annual Percentage Rate for disclosure under Truth-in-Lending also be the contract rate.

- There is a uniform desire to have simplicity in consumer credit contracts upon the part of both creditors and borrowers.
- A single expression of the contract rate can be obtained by requiring that all consumer credit contracts have a provision requiring that the Annual Percentage Rate for disclosure purposes also be considered the contract rate for all purposes other than in the initial rate computation.

Attachment I

Statement of Stanley L. Lind,

Counsel & Secretary of the

Kansas Assn. of Finance Cos.

Before the 1983 Interim

Commercial & Financial Institutions Committee

Atch. II

1-24-84

The Interim Study Committee has tentatively decided to abolish the blended or graduated rate schedule of 36-21-14.45 with dollar breaks at $540 and $1800 -and- replace it with a single rate of 30% to $10,000 and to deregulate over $10,000.

The consequences of this action, if adopted into law are shown in the following schedule of loans for 36 months:

Amount Financed	Present Maximum Rate Schedule	Proposed Maximum Rate Schedule
$ 540	36.00%	30.00%
1274	30.00	30.00
2000	26.86	30.00
3000	23.82	30.00
4000	21.82	30.00
4616	21.00	30.00

From the foregoing schedule it is seen that the proposed 30% maximum would lower the maximum rate on all loans below approximately $1300 and provide for a higher maximum on all loans over approximately $1300.

The following statistics taken from the 1982 Annual Report of the Consumer Credit Commissioner illustrates the impact of this proposal better than words, to-wit:

1 - 41.87% of all loans made by consumer finance companies were $1300 or less; (72,116 Total)

2 - 13.34% of all dollar amount of loans made were $1300 or less; ($194,379,598 Total)

The above figures show that while the total dollar amount of loans less than $1300 is not a major source of business for consumer finance companies, these figures do illustrate vividly that finance companies are a significant source of small loans for the public.

The undoubted consequence of this rate reduction of up to 6% per annum on loans less than $1300 means that there will be a decided drop in the number of loans made under $1300. If loans less than $1300 are now in the less desirable, to unwanted classification by lenders, they will become more so, if this provision becomes law.

If the committee wishes to maintain the proposed 30% single rate structure, we would like to recommend that the committee adopt a 3% service charge on all loans of less than $1000. This would be a non-refundable service charge to permit the lender to off-set the rate reduction, which has been proposed with a 30% single rate. It would also partially compensate the lender for placing a loan on the books. The consequences of such a proposal when compared to the present rate structure are found in the following three pages marked Exhibit "A", "B" and "C".

APR COMPARISON
12 MONTHS

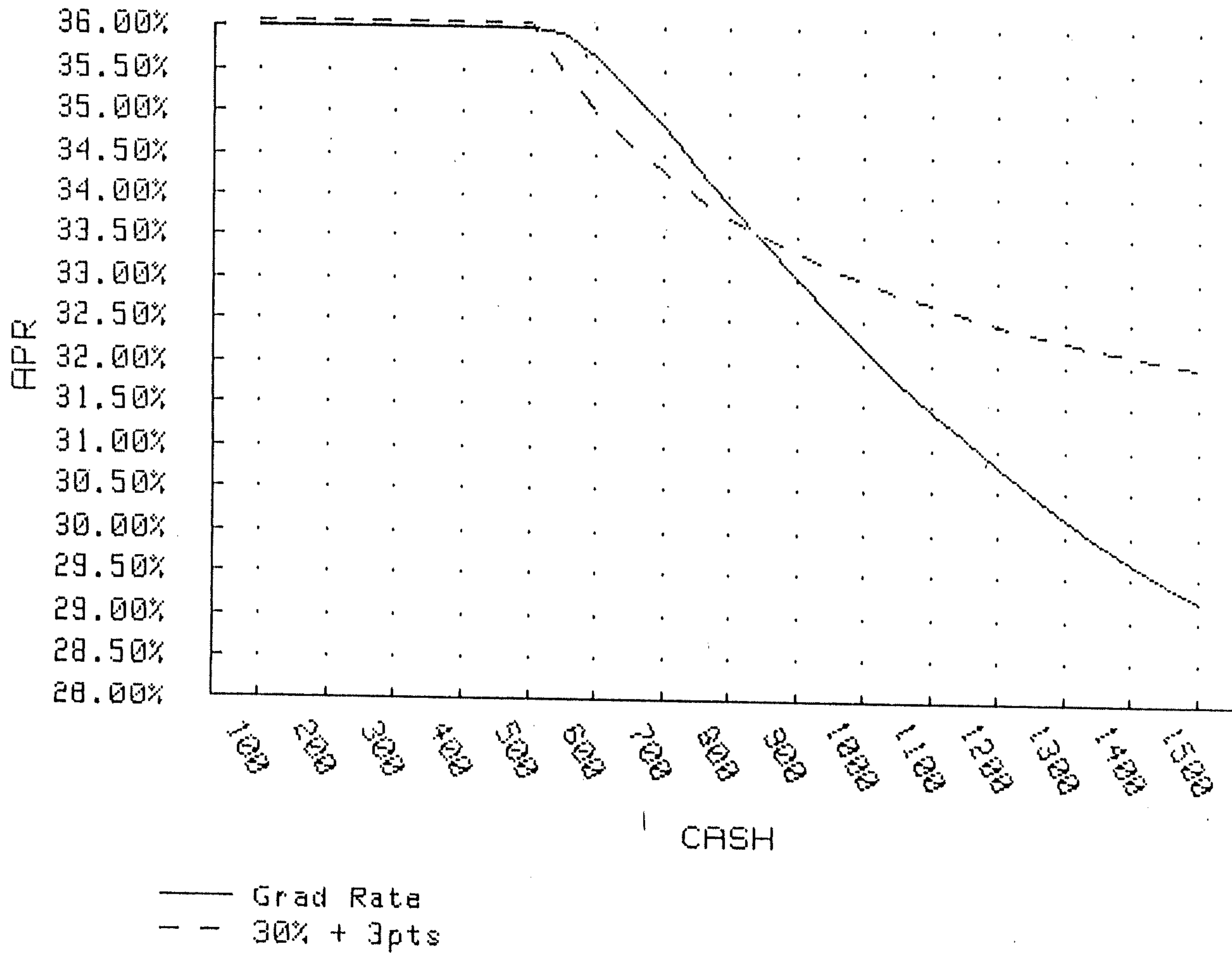


Exhibit "A"

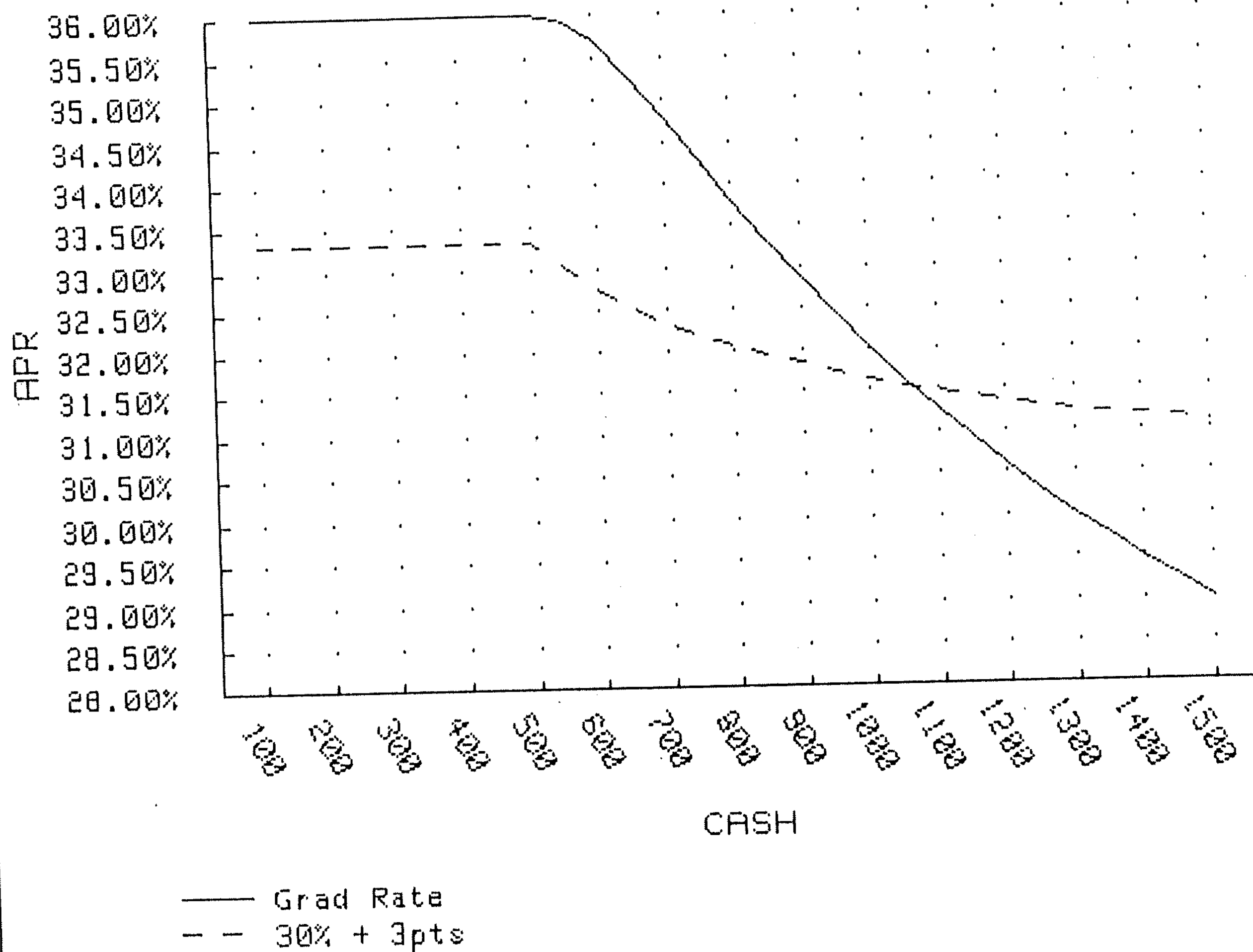


Exhibit "B"

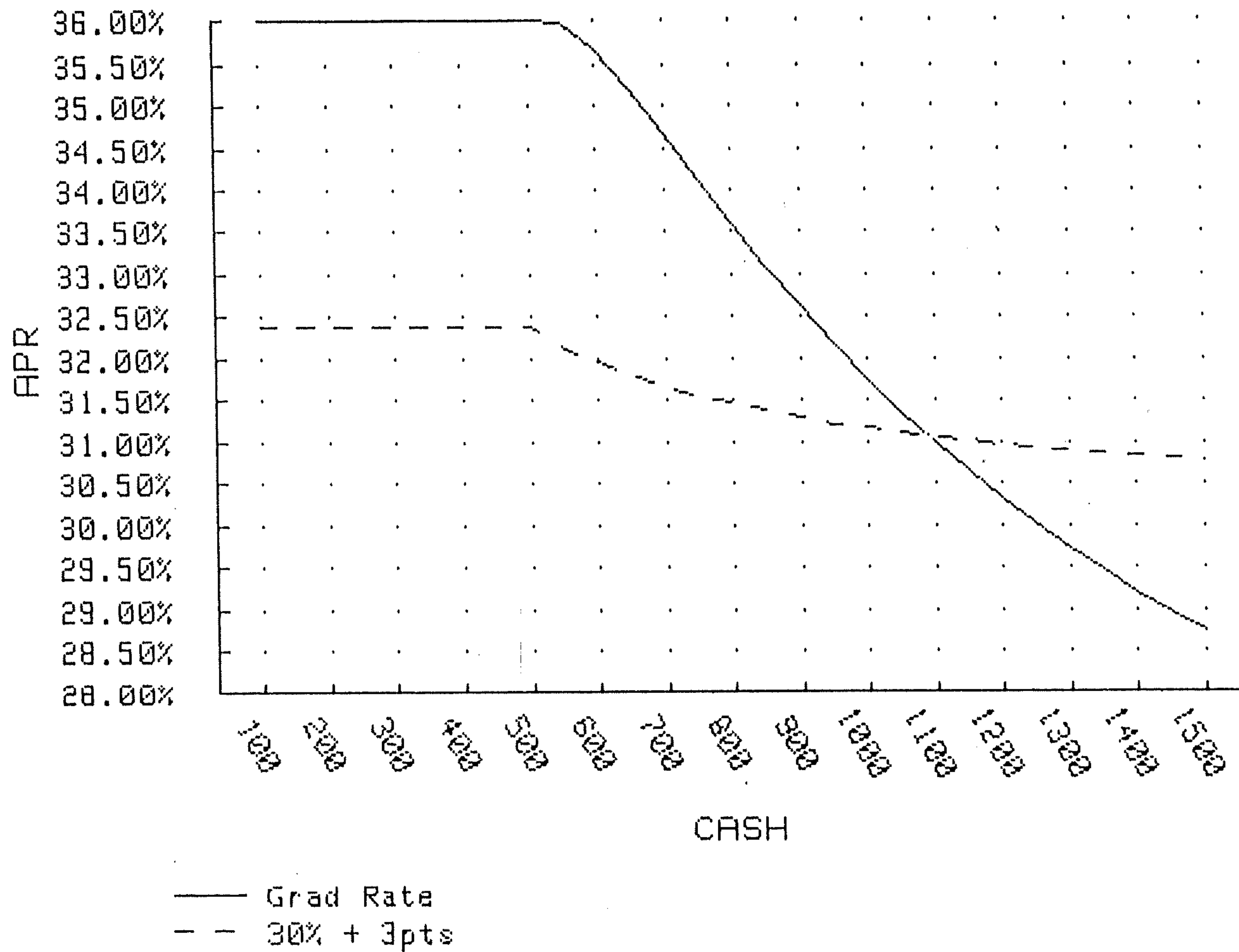


Exhibit "C"

Exhibit "A" (for 12 month loans) shows that a flat 30% rate plus a 3% service charge would equal the present blended rates to $540, drop slightly below to $840, and would be above the present rates above $840.

Exhibit "B" (for 24 month loans) shows that there would be a 2.75% rate reduction to $540, at which point it would drop further to meet the present rates at $1050, where it would then be above the present rates.

Exhibit "C" (for 36 month loans) is much like Exhibit "B", except the drop in rates extends to $1100 at which point they will then be above the present rates.

Because of these three examples, we averaged the three break points -and- have recommended that the 3% service charge fee be made applicable to all loans of $1000 or less. Even with the service charge, loans of 2 or more years will produce a lesser rate than the present schedules.

If the committee can not accept the concept of a 3% non-refundable service charge on loans to $1000, together with a single rate of 30%, we ask that the committee re-consider its actions as to the rates -and- return to the present blended rates.

We think that the maximum single rate of 30%, while seemingly a step toward simplicity, actually complicates the process. This can be seen - by the following factors:

1 - In order to provide a rate which will induce lenders to lend in the small loan areas, a percentage rate would have to be used which is probably politically impermissable -and- too high for larger loans.

2 - If the single maximum rate is too low for the small loan field, then service charges or fees will have to be added in order to induce lenders to lend - which destroys the attempted simplicity.

3 - The single rate concept ignores the fact that Truth-in-Lending requires the APR expressed as a single rate be shown in a conspicuous manner on every consumer credit contract, regardless as to how the interest may be computed.

4 - The single rate concept ignores the recommendation made to this committee that all contracts be required to contain a provision that the APR disclosed on all consumer credit transactions be considered as the contract rate regardless as to whether it was a blended rate or not.

5 - The single rate concept ignores the fact that in the 70 years history of small loan legislation, there has not yet been developed an acceptable substitute for the blended or graduated rates concept.

Because of all of the foregoing, we would urge 3 changes: First that the committee withdraw its tentative recommendations and continue with the present blended rates together with the CPI index provisions as to both instalment loans and instalment sales.

Secondly, we would urge deregulation over $5000 rather than $10,000. We do this because from the practical standpoint, the present rate section equals the 21% alternate rate around $4500. All loans over that amount, in effect have a 21% APR.

The committee has seen that in this year of falling interest rates, that lenders are not charging the maximum of 21% -and- that competition is truly setting the rate for loans over $5000.

Third - That the APR be required to be the contract rate - notwithstanding the method of computation or use of blended rates.

Attachment I

Testimony of the
KANSAS CREDIT UNION LEAGUE
on

HOUSE BILL NO. 2639
AN ACT relating to interest rates;

Presented to the
HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS
January 24, 1984

Mr. Chairman, Members of the Committee:

I am Marvin Umholtz, Vice President of Credit Union Development for the Kansas Credit Union League (KCUL). Our association represents over 94% 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.

I appreciate having the opportunity to appear before the Committee to provide comments on H.B. 2639. KCUL appeared before the Special Committee on Commercial and Financial Institutions during the Interim Study on the Uniform Consumer Credit Code (UCCC) this summer and fall. It was our observation that a thorough review of the UCCC was made by the members of the Special Committee and that H.B. 2639 represents a sincere effort on the part of the Committee to address consumer loan interest rate ceilings in a non-crisis setting.

CURRENT INTEREST RATE CEILINGS

As a supervised financial organization under the UCCC, rate ceilings on state-chartered credit union consumer loans are governed by:

1. K.S.A. 1983 Supp. 16a-2-401(1) (See H.B. 2639, pg. 6, Sec. 5.)

Loan amount	$0-1,000	18% APR	Rates may be blended
over	$1,000	14.5%	

-OR-

2. K.S.A. 1983 Supp. 16a-2-401(2) °With a license from the Consumer Credit Commissioner

Atch. III
1-24-84

Loan amount	$ 0- 540*	36% APR	Rates may be blended
Over	$540-1800	21%	
Over	$1800	14.5%	
or 18% on entire balance			

*Statutory loan amounts increased pursuant to K.S.A. 16a-2-401a by K.A.R. 75-6-24.

-OR-

3. K.S.A. 1983 Supp. 16a-2-401(9) Sunseted alternative rate provision (until 7-1-85) — 21% on the entire outstanding balance.

Federal credit unions (FCU), unlike other financial institutions, have a federal statute which governs their loan rate ceilings. The federal statute, (12 U.S.C. 1757(5)(A) (vi)) sets a 15% ceiling but allows the NCUA Board (federal CU regulator) to set higher limits under certain circumstances. The current FCU rate limit is 21% on the entire outstanding balance.

LEGISLATURE RESPONSIVE

In recent years, the Kansas Legislature has been responsive to the requests of KCUL and other creditor groups for consumer loan rate ceilings which do not unreasonably "choke-off" lending in the state. Most recently, the passage of 1983 HB 2079, which extends the alternative 21% rate ceiling provision until July 1, 1985, clearly shows the Legislature's awareness of the need for rate ceiling relief and recognition that the tiered rate structures of K.S.A. 1983 Supp. 16a-2-401(1) and (2) are not adequate for today's market environment.

Although we applaud the Legislature for the positive actions it has taken in the area of interest rate ceilings in past years, including the Interim Study, our association continues to support the concept of allowing the operation of the market place to determine the rate of return on savings and the cost of borrowing.

LET THE MARKET PLACE DECIDE

Deregulation means letting the market place 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 principle--effectively influence the lending policies established by their elected board of directors.

KCUL believes that the increased financial awareness of the consumer and the natural competition among lenders would preclude unjustifiable interest rates. Competitive factors and not usury ceilings determine acceptable levels for lending rates. In a market place environment, the Legislature need only concern itself with deciding what constitutes "criminal" activity by a lender, whether an institution or an individual.

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.

OTHER STATES

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. This generally means that the CU and the borrower are free to determine the rate by contract.

During 1983, consumer credit codes were overhauled in two states with special attention given to interest rates. In Idaho, S 1140 removed usury limits on all loans and contracts. Utah did so for open-end credit until 1985 by the passage of H 301. (Citation: Idaho Code 28-42-201; Utah Code Annotated 70B-3-

201(4). Both states generally conformed disclosure requirements to federal T-I-L Law. With the passage of H 64, Montana also permanently repealed its usury ceilings for banks, S&L's, and state-chartered CU's. The ceilings had been temporarily removed in 1981, with a sunset provision for this year. (Citation: 31-1-106 Montana Code Annotated).

ADDITIONAL STUDIES

Closer to home, the Task Force on Capital Formation, organized by the Kansas Department of Economic Development in 1981, included in its Final Report to the Governor, December 23, 1981, a recommendation "that the fixed usury ceiling on consumer loans should be eliminated." I will make a full copy of this report available for the Committee upon request.

Additionally, in February 1982, the Federal Reserve Bank of Chicago released a 41 page report entitled, "The Effects of Usury Ceilings; The Economic Evidence." Among other factors, it discusses the resultant credit rationing caused by artifically low usury ceilings. The full text of this report is available upon request.

KCUL POSITION ON H.B. 2639

KCUL did not ask for the 30% interest rate ceiling provided in H.B. 2639, however, we do not oppose it. As a practical matter, the 30% rate is well above the current market rates for consumer loans made by credit unions. Additionally, if the proposed ceiling had been in effect during the period of upwardly-spiraling rates (1980-1981), credit unions would not have had to cut off or severely curtail their lending programs.

The partial deregulation of consumer loan rate ceilings (H.B. 2639, pg. 6, Section 5) is acceptable to our association and could assure that Kansans have credit available to them in the event that the economy sees a rerun of the 1980-81 rate situtation.

SUMMARY

Although H.B. 2639 is an acceptable short-term approach to achieving a "market place environment" for consumer lending in Kansas, it still puts the Legislature in the position of deciding who gets credit and when that credit gets cut off. KCUL recognizes that in the context of the 1984 Kansas Legislative Session, H.B. 2639 is in reality a vehicle for discussion and not an end in itself. Because credit union members rely on credit unions as their source of consumer loans, KCUL will continue to be an active participant in the discussions of UCCC interest rate ceilings and related lending provisions.

Thank you, Mr. Chairman, for providing this opportunity to appear before the Committee. I would respond to questions at your direction.

Attachment IV

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 2639 January 23, 1984

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 in support of House Bill 2639.

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 3,000 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.

House Bill 2639 recognizes two very important facts. The first is that in considering the costs of providing consumer credit, it recognizes that the short-term cost of money to the credit provider is not necessarily correlated to the cost of providing consumer credit. It recognizes that there are three main components in this

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Atch. IV
1-24-84

cost which include the operating costs of the credit grantor, the grantor's credit losses, and finally, the cost of funds.

Secondly, House Bill 2639 recognizes that to force down consumer credit rates artificially is counter-productive and that government interference should remain at a minimal level. Too much interference on the part of the government discourages entry of new competition into the competitive market and adversely affects small credit grantors in relation to large competitors. In the long run, intervention which is triggered by impatience and inadequate consideration of the costs of providing consumer credit is harmful to the consumer, the very group which many seek to benefit by governmental intervention.

Despite the doomsday prediction of those who oppose deregulating consumer credit, my contacts with the nation's largest retailers indicate that in none of the 16 states which have deregulated consumer credit, including Ohio which has an open- and closed-end credit rate ceiling of 25%, is the interest rate now being charged in excess of 21%. In fact, in some of these states, the interest rate is less than 21%. In summary, I would urge the Committee to look beyond the responsiveness of rates charged on consumer credit contracts to short-term fluctuation and cost of money, and to consider the many other features which characterize these contracts. I would urge your favorable consideration of House Bill 2639.

Thank you again Mr. Chairman for the opportunity of appearing before the Committee today and I would be pleased to attempt to answer any questions.

Attachment V

HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

TESTIMONY ON HB 2639

BY

KANSAS BANKERS ASSOCIATION

JANUARY 24, 1984

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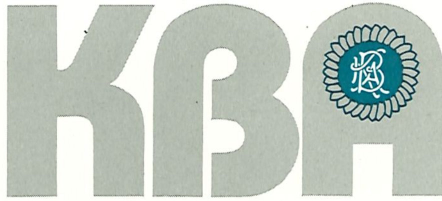
1-24-84



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

January 24, 1984

TO: House Committee on Commercial and Financial Institutions

RE: HB 2639

Mr. Chairman and members of the committee:

Thank you for the opportunity to appear before the committee as it considers amendments to the Kansas Uniform Consumer Credit Code as contained in HB 2639. Let me say initially that the work done by the Special Committee on Commercial and Financial Institutions during the summer months was exemplary and the members of this committee who served on the Special Committee are to be congratulated for their diligence and patience while considering possible changes in this complex code. We believe the Committee made significant strides towards the goals set out for them by the 1983 Legislature of conducting a comprehensive review of the Code. Hopefully, some of the recommendations made will eliminate the need for annual revisions of the Code by the legislature.

The State Affairs Committee of the Kansas Bankers Association and the KBA Governing Council have endorsed most of the amendments to the Uniform Consumer Credit Code contained in HB 2639. We fully understand that those amendments relating to the establishment of a 30% ceiling for loans of less than $10,000 is objectionable to some and we stand willing to work with the committee to reach a compromise which is in the best interests of the Kansas consumer and the creditor industries. We do believe that the provisions of HB 2639 relating to deregulation of consumer loans in excess of $10,000 and the elimination of the Rule of 78s as a method of rebate are both very positive aspects of this legislation.

Since others who are testifying before the committee on this bill are centering their remarks on the rates relating to consumer sales and loans under $10,000, we would like to limit our comments to the matter of deregulation. We have testified over the past two or three years before this committee that due to legislation and regulation by the Federal government there has occurred a dramatic deregulation in the liability side of banking. We have further emphasized that there is relatively little which state governments can do to regulate that aspect of the banking industry since it is basically determined by federal policy and by national and world economic conditions. As you are well aware as you read advertisements in the newspaper and hear radio and TV ads, pratically all deposit instruments offered by financial institutions now have no effective interest rate ceiling thus allowing depositors to receive money-market rates. Certainly by

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1986, the last vestiges of regulation on the liability side of banking will have been removed. However, deregulation on the asset side is far from a reality. In most states, including Kansas, the legislatures still have the authority to determine, in large part, the asset side of banking by legislating what banks may charge for commercial, agricultural and consumer loans.

Over the years, the Kansas legislature has taken an enlighted view of interest rate legislation and in 1981 made the major policy decision to deregulate all commercial and agricultural loans in the same manner as corporate loans had been deregulated in earlier years. However, there has been an ongoing debate for many years over limitations on consumer loans and to this point it is the only major lending area which has not been deregulated in Kansas.

We have presented to this committee over the past several years the results of numerous studies done throughout the United States which show that interest rate ceilings are, in fact, a detriment in consumer lending. Studies done in such states as New York, Illinois, Missouri, Arizona, and Arkansas have shown conclusively that rather than "protecting" the consumer by imposing artificial interest rate ceilings that the practical effect of such ceilings has been to "protect out" a significant number of borrowers. Mr. Lind, in his testimony has already indicated to you the impact of the 18% ceiling on consumer loans during the period of sharp inflation in 1981.

We have shown in past testimony also that even after the 21% ceiling on consumer loans went into effect in July of 1982 in Kansas consumer loan rates moved steadily downwards as the cost of money in the national money market declined. As the attached chart shows the experience in Kansas over the past six months finds interest rates on various types of consumer loans to be well below the 21% ceiling and only reaffirm the fact that the competitive market place is at work and that just because certain interest rate ceilings exist, loan rates do not automatically go to that ceiling and stay there. The history of other types of loans in Kansas also bear out this argument. The deregulation of commercial and agricultural loans by the Kansas legislature in 1981 did not result in any sharp increases in the rates charged for those types of loans, but rather the evidence shows that the rates very closely reflected the fluctuation in the cost of money to financial institutions.

As Dr. Robert W. Johnson of the Credit Research Center at Purdue University pointed out in a recent publication of Monitor, a magazine on research in consumer and mortgage credit, attempts to control consumer interest rates by creating statutory ceilings which are below the money market costs of money dramatically impact the number of borrowers who will have available credit. He further pointed out in his study 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. Thus, while "protecting" the five out of 100 high risk debtors who would probably default on their consumer loan, the 95% of high risk debtors in that same category and who could handle such debt have been effectively denied cash credit. Dr. Johnson further states, "In the long run, intervention triggered by impatience and inadequate consideration of the cost of providing consumer credit will be harmful to consumer--the very group that we seek to benefit by such governmental intervention."

Denying consumers cash credit does not mean they necessarily are denied credit altogether. Unfortunately, the atlernative is worse. In his appearance before the Special Committee this summer, Dr. Johnson also made the following comments which we believe are very relevant:

> "In summary, to create ceilings on consumer credit, most particularly cash credit, do not assure that borrowers pay a "fair price" for credit or that borrowers will be protected from assuming too much debt. High risk/low income consumer simply turn to sales credit where they can be served through the device of packing the cash prices with all or some portion of the finance charge. Other consumer denied cash credit may turn to the illegal loan market with rates over a 1000% per annum."

A logical question for committee members to ask is with rates currently so far below the ceiling, why is there need for deregulation and flexibility? Once again, we would point to the dramatic changes in the cost of money that occurred during the period of 1980 through 1982 due to circumstances far beyond the control of the Kansas legislature. Actions by the Federal Reserve and possible (alas probable) inaction by the Congress of the United States to deal with the ever increasing federal deficit raise the specter of another round of sharp inflation in 1985 or 1986. While no one wants or wishes for such an event to occur because of the horrendous impact on our economy, we do believe that it is much more logical for the legislature to allow for flexibility in the availability of credit at this time rather than responding in the midst of a crisis or when the crisis has already had a adverse impact on both consumers and creditors. You would be hard pressed to find today any economist who does not believe that absent some strong actions by the United States Congress to reduce the ever-increasing federal deficit there will most assuredly be a new round of inflation within the next two years as government demands for money push out the private section in the credit market.

I fully understand that this issue has great potential for misunderstanding and that there is a strong temptation as an elected

official to be an economic guardian angel. However, as we have attempted to show, the results of such protectionism may, in fact, have a result which is exactly the opposite of what was intended. By creating ceilings which cannot respond to rapid fluctuation in the price of money, it creates situations where financial institutions will be unable to grant credit to consumers. Under those circumstances it is not the financial institutions who suffer, but it will be the Kansas consumer who will have been ill-served. We are hopeful that a reasonable and rational compromise can be reached and that any changes recommended by this session of the legislature will result in the greater availability of consumer credit to Kansas citizens.

James S. Maag
Director of Research

Collision

Deficit Looms as Economic Killjoy

By James Russell
Knight-Ridder News Service

Every new figure on the progress of America's economic recovery seems to be grist for the worry warts' mill.

Either the rebound is running too hot or too cold. It's never just right.

About the only consensus around is agreement that recovery is well under way and that a big black cloud called the federal budget deficit threatens to derail it somewhere down the line.

EVERYBODY TALKS about the $200 billion red ink figure on the federal ledger, but nobody does anything about it. So it stays there and glares menacingly, a potential killjoy just waiting to make a move.

If and when the recovery and the deficit finally collide, a return of economic darkness is widely forecast.

"This collision, it seems, is coming," commented Edgar Fiedler, president of the National Association of Business Economists. "When it does, the prime rate could go back up to the 20-percent range."

Liberal, conservative and middle-of-the-road economists all appear to be in accord on the seriousness of the deficit menace. They watch it, analyze it, project it and warn of its consequences.

NO ECONOMIC recovery in the history of the republic has been monitored as closely as this one. And few have produced such perplexing cross currents, with philosophical biases often coloring the thinking of the individual observers.

Just as beauty is in the eyes of the beholder, so is the state of the nation's economy.

The glass-is-half-empty adherents point to continued high unemployment and an overvalued dollar that squeezes U.S. exports. The half-full crowd sees a healthy rebound, replete with tidy increases in corporate profits and a lean-and-mean industrial complex stripped for action.

Just where do we stand on this road back from the worst recession in the post-World War II era?

IN THE good news-bad news mix, the good clearly is dominant.

- The real gross national product, with inflation weeded out, jumped 9.2 percent in the April-June quarter after a modest 2.6 percent gain in the first quarter.
- Personal income climbed sharply in July, continuing a trend that started this year.
- Consumer confidence, as measured by a University of Michigan survey, has reached its highest level in 11 years.
- Consumer spending is up nicely as well.
- A recent rise in interest rates flattened out and some welcome declines developed.
- Industrial production and factory utilization — the use of existing manufacturing facilities — have posted impressive gains.
- Consumer prices, as shown in the government cost-of-living index, have been rising at a relatively modest annual rate of between 4 and 5 percent.
- There has been a surprisingly large upsurge in corporate profits, which are considered a telling measure of business health.

● DEFICIT, 4C, Col. 1

Jim Hayward/Staff Artist

The bigger the government deficit, the more Uncle Sam crowds out private economic activity.

U.S. Headed on Collision Course

● DEFICIT, From 1C

THAT'S SOME of the good news. Now, what about the bad?

- Unemployment still is disturbingly high, although the rate has fallen into single digits (now just below 10 percent) with the advance of the business recovery.
- A rebound in homebuilding has slowed as mortgage rates have moved up.
- The cost of borrowing money almost anywhere for almost any purpose remains much too high when it is stacked up against the inflation rate. Historically this gap has run between 2 and 3 percent; now it is about 7 percent — or higher.
- The federal budget deficit is a record $200 billion-plus and climbing.

Ay, as Hamlet would have said, there's the rub. That deficit.

"That one big negative in our economic picture causes most of the other negatives," said Mickey Levy, senior vice president and chief economist for Fidelity Bank in Philadelphia.

CONGRESS APPROPRIATES. Government spends more than it takes in. As it spends more, it taxes less. To pay the bills, it borrows, and borrows and borrows. No matter what the cost, it borrows.

The government owes about $1.4 trillion. The way the debt load keeps expanding, the government will owe $2.1 trillion by the end of 1986. That's what the Congressional Budget Office estimates.

When a borrower with such a voracious appetite for money goes a-borrowing, it elbows other would-be debtors aside, and its enormous demands tend to drive interest rates higher.

That's what has the economic forecasters worried. As business recovery accelerates, credit needs grow. But alas, there will be big government grabbing the lion's share of a limited supply of lendable money.

ECONOMIST LAWRENCE Chimerine of Chase Econometric Associates is convinced that the recovery is here to stay at least until the end of this year. But, he added, when 1984 arrives, the specter of higher interest rates will return.

The big, bad, bulky deficit is the culprit.

"The deficit outlook remains extremely poor, despite the faster than expected recovery, since the rate of recovery almost certainly will slow down," he said.

There's just nothing on the economic horizon that will reduce the federal deficit, he added.

"PRESSURES FROM rising federal deficits, plus the continued economic recovery, will force interest rates higher in late 1984 or 1985 if these deficits are not reduced," Chimerine continued.

Already, said Levy of Fidelity Bank, "the deficit is keeping interest rates much higher than they would be otherwise."

Lenders are demanding premiums to compensate for the higher rates of interest that are considered likely next year or beyond. Like the economists, the lenders see the deficit threat all too clearly.

There are ways for that evil glob of red ink to be thinned, but there is not much hope that the necessary steps will be taken.

AN OCCASIONAL optimist will suggest that some of the deficit will self-destruct.

"We expect business credit demands to stay moderate for at least six months, while the rebounding economy will reduce projected federal budget deficits," observed Mark Biderman of the Wall Street firm of Oppenheimer and Co.

A rebounding economy presumably would produce higher wages, higher corporate profits and fewer people on the federal dole.

But the prevailing view in economic circles is that the rebound alone won't do the job.

"THE ONLY viable long-term solution is to cut government spending," said Levy of Fidelity Bank. "Government spending crowds out private economic activity."

Raising taxes has been proposed — especially by Democrats in Congress — but conservative economists like Levy think that's a bad idea. It would chip into consumer spending power, which has been a major force behind the recovery.

There is no doubt about the fact of the recovery. It's here, in full bloom. What's at question is its continued stamina and its duration.

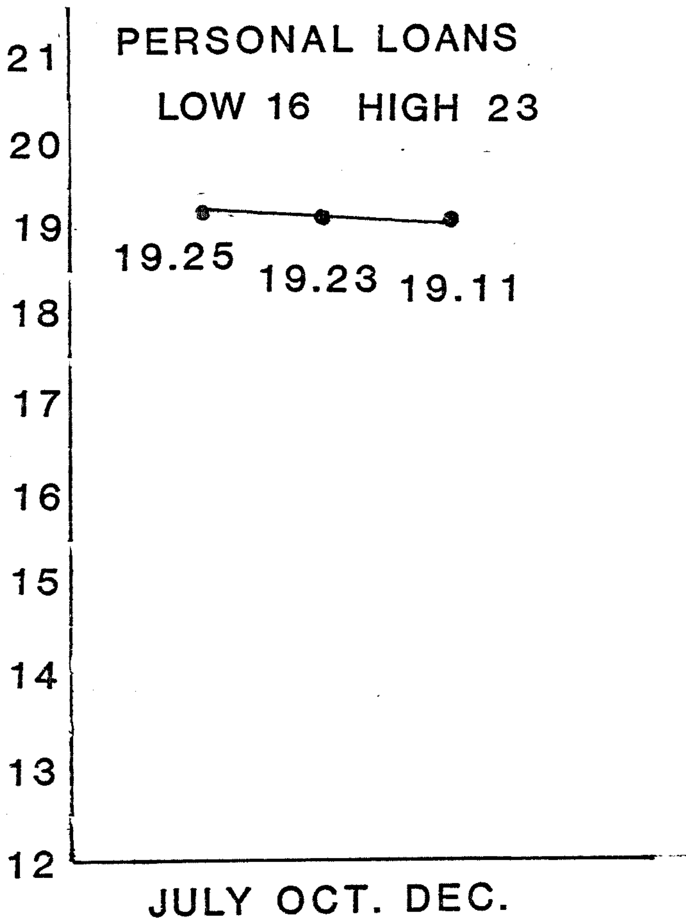
"The huge budget deficit represents a major and perhaps immovable roadblock in the path of stable economic expansion and lower interest rates," said Norman Robertson, chief economist for the Mellon Bank in Philadelphia.

AS LONG as the deficit remains in the $200 billion range and the government gobbles up more than 40 percent of all the money raised in U.S. credit markets, Robertson said, "it's very difficult to see a sustained drop in rates unless the economy stagnates or drifts into another recession."

Robert Ortner, chief economist for the Commerce Department, has no encouraging words on the deficit front.

Like private economist Levy, Ortner said it's government spending that's causing all the trouble, and politcally minded members of Congress "don't want to cut spending programs popular with their constituents."

The longer Congress stalls on dealing with the problem, Ortner continued, the worse it will get. The interest payments on the national debt will get bigger and bigger.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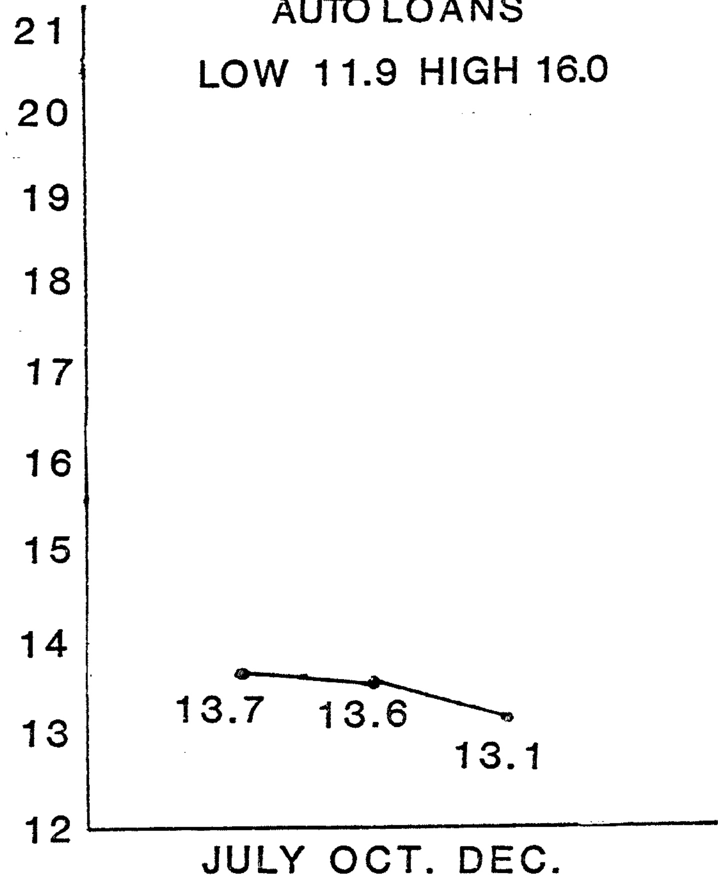
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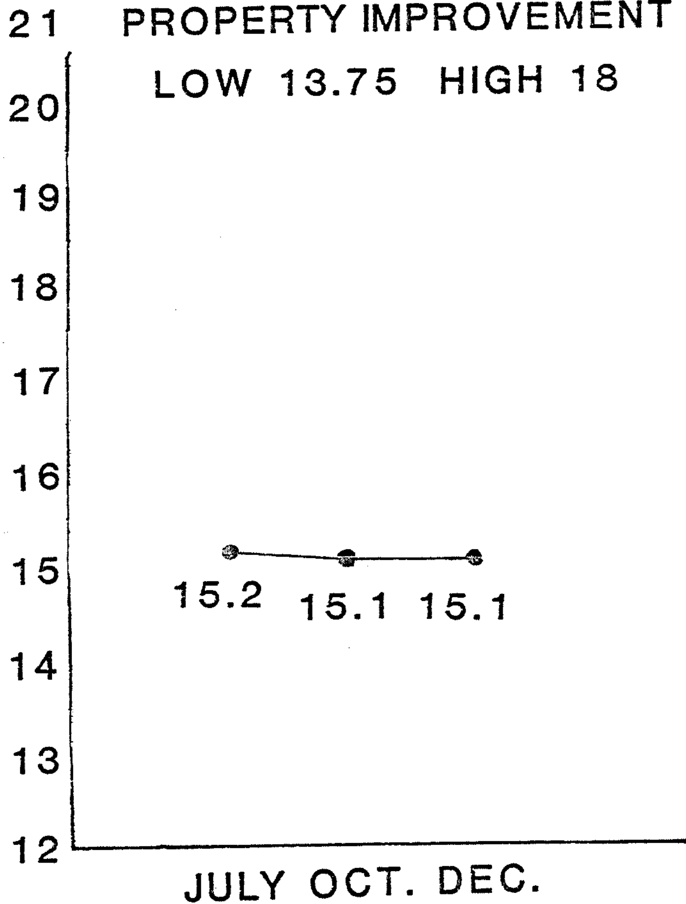
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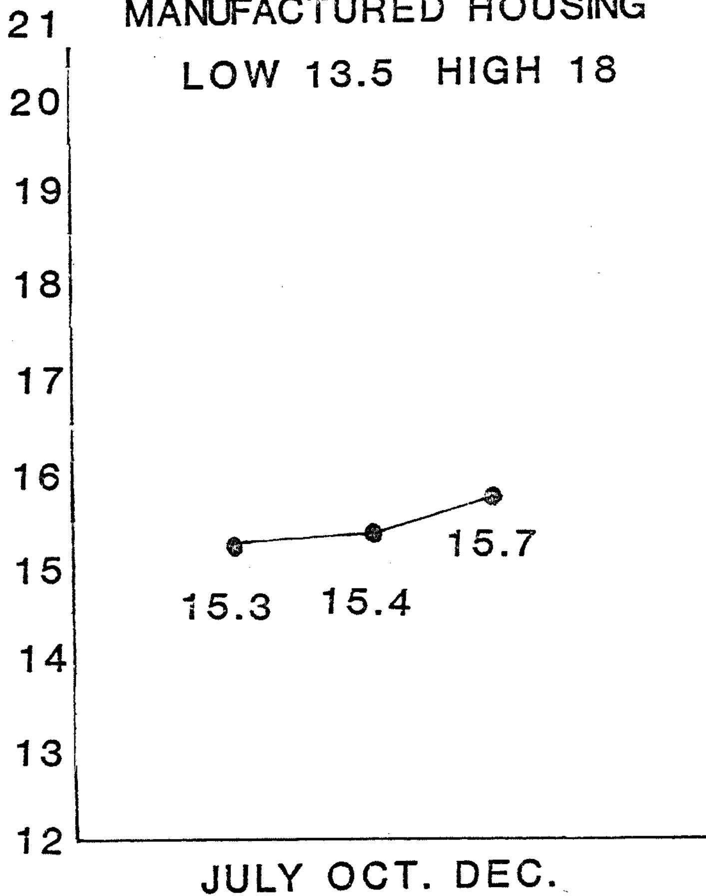
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