Approved February 24, 1984
Date

MINUTES OF THE SENATE COMMITTEE ON ~~COMMERCIAL AND FINANCIAL INSTITUTIONS~~.

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m./~~p.m.~~ on February 23, 1984 in room 529-S of the Capitol.

All members were present except:

Sen. Hess - Excused

Committee staff present:

Bill Wolff, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Sen. Jack Steineger
Stan Lind, Kansas Association of Finance Companies
Bud Grant, Kansas Chamber of Commerce and Industry
Jim Maag, Kansas Bankers Association
Anderson Chandler, Kansas Bankers Association
Pat Alexander, Kansas Bankers Association
Onis L. Lemon, Commerce Bank and Trust of Topeka and
Kansas Manufactured Housing Institute

The minutes of February 22 were approved.

The hearing began on SB 547 with the testimony of Sen. Jack Steineger in support of the bill. (See Attachment I.)

Upon the conclusion of Sen. Steineger's testimony, the chairman said that he felt he must defend the interim committee's report with reference to Sen. Steineger's testimony. He said that no one on the committee felt that the 30% rate would become law. Furthermore, all four Democratic members signed the minority report, but all four did not vote against the 30% maximum interest rate. And finally, the chairman explained that the committee did not hear testimony from the consumer's viewpoint because it was not able to get a consumer representative to testify although staff and committee members made attempts several times.

Sen. Werts asked Sen. Steineger if he had figures on the maximum rates he referred to on page two of his written testimony. Sen. Steineger said that although he had checked into other maximum rates, he did not have exact figures because he has been unable to get the figures.

The chairman asked if the 15% interest rate were in effect today, would it have an affect on the availability of of credit on small loans. Sen. Steineger answered that it would not. He added that there has never been any proof on this, but rather one must rely on common sense and free enterprise. The chairman inquired further how Sen. Steineger would account for the fact that in 1981 there were 100 finance companies closed. Sen. Steineger said that he feels it is due to the fact that the highest rate of bankruptcy ever occurred at that time and that there were many farm foreclosures.

The chairman called on Stan Lind, Kansas Association of Finance Companies, who gave his testimony in opposition to SB 547. He began by stating that if this bill is enacted, it will result in the closing of all finance companies in Kansas. He gave statistics showing that finance companies have been experiencing losses in recent years, and the bill would make matters worse. In regard to installment sales, Mr. Lind said that if finance companies are forced out of business by the bill, it would result in an increase in the price of products in Kansas because retailers would have to finance sales by other means. He added that the single rate concept is not as simple as it has been made to sound and that it would create more problems. He quoted from his testimony given to the interim committee opposing the 30% maximum interest rate. He continued by saying that SB 547 does have some good points in that it does acknowledge that Kansas should have the same rates for all types of consumer credit, and also acknowledges that the concept of a base index upon which to predicate interest rates is needed. Mr. Lind stated that if a single maximum rate is politically permissible,

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS,

room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on ~~February 23~~, 19~~84~~.

he would be glad to work with the committee on a bill which he suggested would include the concepts of HB 2629 which is presently being held in the House. He concluded with the comment that he would hope that the committee would choose to recommend the bill for interim study and reiterated that he opposes SB 547 but is willing to work on the concept.

Bud Grant, Kansas Chamber of Commerce and Industry, gave his testimony in opposition to SB 547. He said that he opposes the bill not because of the technical problems which could be worked out but because of the variable interest rate and its method of computation. He feels that the consumer interest rates should not be tied to the cost of money only but also to other factors. He stated that he concurs with the committee interim report.

The chairman called attention to the written testimony of Marvin Umholtz of the Kansas Credit Union League opposing SB 547 which had been distributed to committee members before the meeting due to the fact that Mr. Umholtz could not personally appear. (See Attachment II.)

The chairman called on Jim Maag, Kansas Bankers Association, to give his testimony in opposition to SB 547. In the interest of saving time, Mr. Maag distributed copies of his written testimony (See Attachment III) and introduced Anderson Chandler of the Kansas Bankers Association to give testimony in opposition of SB 547. Mr. Chandler said that the bill would adversely affect the availability of credit to Kansas consumers. He explained that SB 547 would cause the breakeven point to be too high for banks to make a profit. As an aid in illustrating this point, Mr. Anderson distributed copies of a report prepared by the Federal Reserve showing the costs of banks in putting consumer loans on the books. He had highlighted the figures of special interest and explained the significance of them. (See Attachment IV.) He said the problems would occur in handling the small consumer loan where the banks would not be able to realize a profit. He suggested that it would be more appropriate to allow a small nonrefundable fee for small loans which would prevent the lender from losing money on the loans.

Pat Alexander, Vice President of the First National Bank in Lawrence and with the Kansas Bankers Association, gave his testimony in opposition to SB 547. He said one reason for his opposition is from the viewpoint of the nuisance factor of the bill in that the adjustable rate will be confusing both to the consumer and the official trying to explain the index rate changing. But his primary objection is that it will reduce credit availability for the high risk loans and the small personal loans needed by the consumer. He told the committee that at present the rate for larger loans is 12.5% and 13.2% due to competition. But, on the other hand, about 20% of the loans his bank makes are for small loans or poor risk loans which need higher rates to reduce the loss on that type of loan. He gave an example of a recent loan of $350 he made to a man to pay his gas bill. The interest rate for the loan was 25% which amounts to $21 for a 90 day loan. However, the cost to put the loan on the books is $75. He said that at present he does not charge the maximum on any of their loans. Mr. Alexander said that if the bill is enacted, in a period of increasing interest rates, it could be that financial institutions may not be able to make loans at all at times; and the consumer would be forced to delay purchases until such time the bank would make the loan.

Final testimony opposing SB 547 was given by Onis Lemon, Vice President of Commerce Bank and Trust of Topeka and Treasurer of the Kansas Manufactured Housing Institute. (See Attachment V.)

There being no further time, the hearing on SB 547 was concluded.

The meeting was adjourned.

SENATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/23	TJ Wilder	Topeka	KLSI
2-23	Jim McBride	Topeka	United Way of Topeka
2/23	CHARLES BELT	WICHITA	CHAMBER OF COMMERCE
2/23	Bud Grant	Topeka	KCCI
2-23	JIM SULLINS	TOPEKA	Ks. MOTOR CAR DEALERS ASSN.
2.23.84	ANDERSON CHANDLER	TOPEKA	KBA
2/23/84	H Stone	KBA	Topeka
2/23/84	Pat Alexander	Lawrence	FNB of Lawrence
2/23/84	ONIS L. LEMON	TOPEKA.	Commerce Bank & Trust Topeka,
2/23/84	Jim Maag	"	KBA
2/23/84	Margie Braden	Topeka	KMHT
2/23/84	Jerel Wright	"	KCUL
"	DON PHELPS	"	CONS. CR. COMM.
2/23/84	Mel Battin	"	" " "
"	John Spurgeon	Lawrence	Budget
"	Tom Ryan	Topeka	KAFC
"	S. L. LIND	K.C. Ks.	KAFC
	Barry Massey	Topeka	Associated Press

STATEMENT BY SENATOR JACK STEINEGER
S. B. 547 - FEBRUARY 23, 1984
SENATE COMMERCIAL AND FINANCIAL INSTITUTIONS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I APPRECIATE THIS OPPORTUNITY TO PRESENT ANOTHER PART OF THE 1984 DEMOCRATIC CONSUMER FAIRNESS PACKAGE, OUR FLOATING INTEREST RATE BILL.

AS EVERYONE ON THIS COMMITTEE IS WELL AWARE, DURING THE PAST NINE MONTHS INTEREST RATES HAVE RECEIVED A GOOD DEAL OF ATTENTION FROM THE LEGISLATURE. AN INTERIM COMMITTEE LAST SUMMER WAS ASSIGNED TO STUDY THE UNIFORM CONSUMER CREDIT CODE, AND THAT COMMITTEE, WITH ALL FOUR DEMOCRATIC MEMBERS DISSENTING, RECOMMENDED INTEREST RATE MAXIMUMS FOR KANSAS CONSUMERS BE RAISED TO 30 PER CENT.

DEMOCRATS ON THE COMMITTEE---AND I THINK THEIR OPINION IS MIRRORED BY MANY LEGISLATORS OF BOTH PARTIES---WERE BOTH SURPRISED AND PERPLEXED WHEN THE INTERIM COMMITTEE RECOMMENDED THE NEW 30-PER CENT RATE. I'M SURE MOST OF YOU ARE AWARE OF THE MINORITY REPORT, AND I THINK MANY OF US SHARE PRECISELY THE SAME CONCERNS---AND HOLD PRECISELY THE SAME OBJECTIONS---AS STATED IN THAT REPORT.

IN THE MINORITY REPORT, FOUR FUNDAMENTAL OBJECTIONS TO THE HIGHER INTEREST RATES WERE RAISED.

FIRST, DEMOCRATS FELT THERE WAS ABSOLUTELY NO CONCRETE EVIDENCE TO SUPPORT THE NEED FOR A 30-PER CENT MAXIMUM. INSTEAD, THE COMMITTEE WAS TOLD MAXIMUMS SHOULD BE RAISED BECAUSE CREDITORS "FEARED"

- MORE -

Attachment I

THE COST OF MONEY MIGHT REACH 1981-82 LEVELS. DEMOCRATS FELT THERE WAS NO NEED TO RAISE RATES JUST TO ADDRESS THIS KIND OF "HYPOTHETICAL" PROBLEM.

THEY POINTED OUT---AND I QUOTE FROM THEIR REPORT----"IN THE WORLD OF CONSUMER CREDIT, LEGAL MAXIMUMS IN THE STATUTE BOOKS SOON BECOME MINIMUMS FOR CONSUMERS ON MAINSTREET. ABSENT COMPELLING EVIDENCE THAT 30-PER CENT MAXIMUMS ARE BOTH NEEDED AND DESIRABLE, WE CANNOT, IN GOOD CONSCIENCE, SUPPORT SUCH SWEEPING CHANGES." MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I FULLY AGREE.

SECOND, THE DEMOCRATS POINTED OUT THAT NOT A SINGLE CONSUMER CONFEREE APPEARED BEFORE THE INTERIM COMMITTEE AND ASKED FOR HIGHER INTEREST RATES. INSTEAD, THEY SAID, THE COMMITTEE HAD HEARD FROM A NUMBER OF "EXPERTS" PAID ONE WAY OR ANOTHER BY CREDITORS WHO COLLECT INTEREST, NOT CONSUMERS WHO PAY IT. THE SITUATION HERE IN THE LEGISLATURE WAS PRETTY WELL SUMMED UP BY A RECENT HEADLINE IN THE WICHITA EAGLE-BEACON, AND I QUOTE: "FINANCIAL LOBBYISTS URGE HIGHER RATES OF INTEREST."

THIRD, DEMOCRATS ON THE INTERIM COMMITTEE DID NOT AGREE THAT THE COMMITTEE SHOULD RECOMMEND A 30-PER CENT MAXIMUM SO THE 1984 LEGISLATURE COULD BEGIN THE PROCESS OF DEREGULATION OF CONSUMER CREDIT TRANSACTIONS. I REALIZE, OF COURSE, THAT THE IDEA OF "DEREGULATION" HAS GAINED A LOT OF CURRENCY IN THE PAST FEW YEARS---AND IS USED TO JUSTIFY ALL SORTS OF PROPOSALS. WELL, IN THE LONG VIEW, THERE CONTINUES TO BE A NUMBER OF SOUND, LEGITIMATE REASONS TO REGULATE THE CREDIT INDUSTRY.

FINALLY, DEMOCRATS ON THE INTERIM COMMITTEE OBJECTED TO THE 30-PERCENT RECOMMENDATION BECAUSE THEY BELIEVED AN OBJECTIVE REVIEW OF KANSAS ECONOMIC FACTS LED TO ONLY ONE CONCLUSION, AND I QUOTE:

"KANSAS INTEREST RATE CEILINGS SHOULD NOT BE RAISED."

AT THIS POINT, I WOULD BRING OUT MY FIRST CHART OF THE 1984 SESSION---SOMETHING I'M SURE YOU'VE ALL BEEN WAITING FOR. SERIOUSLY, I THINK YOU WILL FIND IT BOTH INTERESTING AND ENLIGHTENING ON THE SUBJECT OF CONSUMER INTEREST RATES.

WHAT THIS CHART SHOWS IS VERY SIMPLE. IT ILLUSTRATES THE RELATION BETWEEN THE INFLATION RATE, THE PRIME INTEREST RATE, AND THE HIGHEST RATES ALLOWED ON $2,000 LOANS FOR THE PAST TEN YEARS---THAT IS, THE EFFECTIVE RATE THAT CAN BE CHARGED ON $2,000 OF OPEN-END OR CLOSED-END CREDIT---OR ON A $2,000 LOAN FROM A FINANCE COMPANY.

BACK IN 1974, WHEN BOTH INFLATION AND THE PRIME WERE RUNNING AT ABOUT 11 PERCENT, THE MAXIMUM RATE ON $2,000 OF OPEN-END OR CLOSED-END CREDIT WAS 16.675 PERCENT, SLIGHTLY HIGHER THAN THE 16.225 PERCENT ALLOWED ON A $2,000 FINANCE COMPANY LOAN.

AS WE MOVED THROUGH THE 70s, WE SEE THAT INFLATION FELL TO LESS THAN 6 PERCENT AND THE PRIME WAS DOWN TO LESS THAN 7 PERCENT. THROUGH THESE YEARS, MAXIMUMS FOR OPEN-END AND CLOSED-END CREDIT STAYED THE SAME, ALTHOUGH FINANCE COMPANY MAXIMUMS WERE INCREASED IN 1975 BY THE LEGISLATURE AND AGAIN IN 1978 BY THE CONSUMER CREDIT COMMISSIONER.

THEN, IN 1980 AND 1981, WE SEE THE BIG CHANGE. INFLATION HIT 13.5 PERCENT FOR 1980, AND THE PRIME ENDED UP AVERAGING NEARLY 19 PERCENT FOR 1981. DURING THIS PERIOD, THE LEGISLATURE ENACTED AN 18-PERCENT MAXIMUM, ALTHOUGH THE EFFECTIVE RATE ON $2,000 LOANS BY FINANCE COMPANIES PASSED THE 22-PERCENT MARK BECAUSE THE AUTOMATIC ESCALATOR THE LEGISLATURE HAD BUILT INTO THE LAW.

THEN, IN 1982, THE LEGISLATURE WENT AHEAD AND PUT IN A 21-PERCENT MAXIMUM ACROSS THE BOARD. BY NOW, THE RATE FOR FINANCE COMPANIES ON A $2,000 LOAN HAD REACHED 24.4 PERCENT.

WHAT ALL THIS MEANS, IN A NUTSHELL, IS THAT THE WAY WE HAVE GONE ABOUT SETTING MAXIMUM INTEREST RATES IN KANSAS HAS PRODUCED MAXIMUM RATES THAT HAVE LITTLE TO DO WITH THE COST OF MONEY--- MEASURED BY EITHER THE CONSUMER PRICE INDEX OR THE PRIME RATE.

WHAT WE HAVE, IN EFFECT, IS WHAT MIGHT BE CALLED A "RATE KITE." IT'S DIFFERENT THAT THE USUAL KITE, THOUGH, BECAUSE WHEN THE WINDS OF INFLATION STOP BLOWING, THIS KITE CONTINUES TO HANG IN THE STRATOSPHERE.

SENATE BILL 547 WOULD CHANGE THAT BY SETTING THE MAXIMUM RATE FOR ALL CONSUMER LOANS AT THE SIX-MONTH T-BILL RATE PLUS SIX PERCENT--- ROUNDED TO THE NEXT HIGHER 1/2 PERCENT. WITH T-BILLS NOW AT A LITTLE MORE THAN 9 PERCENT, THIS BILL WOULD PRODUCE AN INTEREST RATE MAXIMUM OF 15 AND A HALF PERCENT.

I THINK THERE ARE MANY ADVANTAGES TO OUR APPROACH, WHICH, IN ANY EVENT, IS CLEARLY BETTER THAN RAISING MAXIMUM INTEREST RATES TO 30 PERCENT ACROSS THE BOARD.

FIRST, IT'S MARKET SENSITIVE. AS THE COST OF MONEY GOES UP, THE MAXIMUM INTEREST RATE GOES UP. CONVERSELY, AS THE COST OF MONEY COMES DOWN, THE MAXIMUM INTEREST RATE COMES DOWN.

SECOND, IT'S EASY TO UNDERSTAND. ANYONE OPERATING UNDER THE CONSUMER CREDIT CODE ONLY HAS A SINGLE RATE TO DEAL WITH. ON THE OTHER SIDE, KANSAS CONSUMERS WOULD BE FACED WITH A SINGLE, STRAIGHTFORWARD RATE INSTEAD OF THE FIVE, OFTEN-CONFUSING RATES, CURRENTLY IN USE.

THIRD, IT DIRECTLY ADDRESSES THE "RATE KITE" PROBLEM I NOTED EARLIER. INSTEAD OF HANGING FOREVER HIGH IN THE ATMOSPHERE, THE RATE KITE WOULD COME DOWN ALONG WITH THE COST OF MONEY.

S.B.547-6

FINALLY, I WANT TO CALL THE COMMITTEE'S ATTENTION TO THE MAGNITUDE OF CONSUMER LENDING IN KANSAS. IN JANUARY, THE LEGISLATIVE RESEARCH DEPARTMENT PREPARED A MEMORANDUM FOR ME WHICH SHOWED THE TOTAL DOLLAR AMOUNT OF OUTSTANDING CONSUMER INSTALLMENT LOANS IN KANSAS. I HAVE ATTACHED A COPY OF THE MEMO ON THE BACK OF THIS TESTIMONY. THAT MEMO SHOWS THE FOLLOWING CONSUMER LOANS:

COMMERCIAL BANKS	-	\$2.050 BILLION
CREDIT UNIONS	-	\$ 733 MILLION
RETAILERS/ASSIGNEE	-	\$ 689 MILLION
FINANCE COMPANIES	-	\$ 309 MILLION
SAVINGS & LOANS	-	\$ 143 MILLION

IN TOTAL, LEGISLATIVE RESEARCH ESTIMATES THAT THERE IS CURRENTLY NEARLY \$4 BILLION IN OUTSTANDING CONSUMER CREDIT IN KANSAS---- \$3.925 BILLION TO BE EXACT.

WHAT THIS MEANS IS CLEAR. IT MEANS THAT EVERY PERCENTAGE POINT OF ACTUAL INTEREST COLLECTED FROM KANSAS CONSUMERS IS WORTH NEARLY \$40 MILLION TO FINANCIAL INSTITUTIONS. LOOKED AT ANOTHER WAY, IF WE CUT THE ACTUAL RATE ONE PERCENT, WE SAVE KANSAS CONSUMERS \$40 MILLION. AND I KNOW WHAT YOU'RE THINKING---WITH WOLF CREEK COMING ON LINE, MAYBE THIS BILL ISN'T SUCH A BAD IDEA.

SERIOUSLY, NOBODY KNOWS WHAT THE ACTUAL INTEREST RATE IS ON THIS FOUR-BILLION DOLLAR POOL OF CONSUMER LOANS. SOME OF US THINK IT MAY BE AS HIGH AS 18 PERCENT, OVER ALL. AND, IF IT IS 18 PERCENT, DROPPING THE MAXIMUM TO 15 1/2 PERCENT WOULD SAVE KANSAS CONSUMERS \$100 MILLION.

AS FOR THE BILL ITSELF, I THINK MOST OF YOU ARE FAMILIAR WITH ITS PROVISIONS. IT WOULD REPEAL ALL THE VARIOUS, CONFUSING RATES NOW PEPPERED THROUGHOUT THE CONSUMER CREDIT CODE AND PUT A SINGLE, FLOATING RATE IN THEIR PLACE. THE RATE, AS I NOTED, WOULD BE SIX POINTS ABOVE THE 6-MONTH T-BILL RATE, AND WOULD BE SET QUARTERLY.

THE CONCEPT EMBODIED IN THIS BILL HAS BEEN USED IN OTHER STATES, NOTABLY WISCONSIN AND TEXAS. YOU MAY WANT TO REVIES THE APPROACHES USED IN THOSE STATE AND MODIFY THIS BILL. IT COULD BE, FOR EXAMPLE, THAT YOU WANT THE FLOATING RATE TO APPLY ONLY TO CREDIT CARDS---THIS IS THE TEXAS APPROACH. OR YOU MAY WANT TO SET A FLOOR AND CEILING FOR THE RATE TO FLOAT BETWEEN. I DON'T THINK THERE'S ANYTHING INHERENTLY WRONG WITH EITHER OF THESE IDEAS.

THE MAIN POINT---AND I DON'T THINK IT CAN BE OVER-EMPHASIZED---IS THAT SOMETHING MUST BE DONE TO STOP OUR MAXIMUMS FROM GETTING STUCK UP HIGH AND NEVER COMING DOWN. OUR CURRENT APPROACH DOESN'T MAKE SENSE, NOR IS IT FAIR.

IN CLOSING, I THINK THIS BILL WOULD RE-ESTABLISH THE LEGISLATURE'S COMMITMENT TO THE THOUSANDS OF KANSANS WHO DON'T HAVE LOBBYISTS IN THIS STATEHOUSE. FRANKLY, MANY OF US HAVE GREAT DIFFICULTY IN SEEING ANY FAIRNESS IN ALLOWING CONSUMERS TO BE CHARGED OVER 22 PERCENT ON $2,000 LOANS WHILE THE PRIME RATE IS ONLY HALF AS MUCH. IT ALL BOILS DOWN TO A QUESTION OF FAIRNESS. OUR CHOICE IS CLEAR. WE CAN EITHER BE FAIR TO THE PEOPLE OF KANSAS---OR WE CAN PUT ON OUR ROSE-COLORED GLASSES AND PROCEED WITH BUSINESS AS USUAL.

' ECONOMIC AND FINANCIAL DATA

1974-1983

Year	Inflation CPI-U	GNP/PCE	Prime Rate[c]	Maximum Legal Interest Rates Business[d]	Open End[e]	Closed End[f]	Licensed Lenders[g]	Agriculture[h]
1974	11.0%	10.1%	10.81%	10.0%[dd]	21%/300 18/300-1,000 14.4/1,000+	21%/300 18/300-1,000 14.45/1,000+	18%/1,000 14.45/1,000+ or 36/300 10/300+	Same as authorized for open end, closed end and licensed lenders
1975	9.1	7.6	7.86	Same	Same	Same	18/1,000 14.45/1,000 or 36/300 21/300-1,000 14.45/1,000+	Same
1976	5.8	5.1	6.84	Same	Same	Same	Same	Same
1977	6.5	5.8	6.83	Same	Same	Same	Same	Same
1978	7.7	7.0	9.06	Same	Same	Same	18/1,000 14.45/1,000+ or 36/360[gg] 21/360-1,200 14.45/1,200+	Same
1979	11.3	9.0	12.67	Same	Same	Same	Same	Same
1980	13.5	10.3	15.27	Same	21/300 18/300-1,000 14.4/1,000+ or 18% on balance	21/300 18/300-1,000 14.45/1,000+ or 18% on balance	18/1,000 14.45/1,000+ or 36/420[gg] 21/420-1,400 14.45/1,400+ or 18% on balance	Same
1981	10.3	8.5	18.87	N/A[ddd]	Same	Same	Same	N/A[hh]
1982	6.2	5.9	14.86	N/A	21/300 18/300-1,000 14.4/1,000+ or 21% on balance	21/300 18/300-1,000 14.45/1,000+ or 21% on balance	18/1,000 14.45/1,000+ or 36/540[gg] 21/540-1,800 14.45/1,800+ or 21% on balance	N/A
1983	3.7[a]	4.4[b]	10.88[cc]	N/A	Same	Same	Same	N/A

a) Based on average index for the first four months of CY 1983.

b) Based on average index for the first three months of CY 1983. GNP price deflator for personal consumption expenditures.

c) Source: Economic Report of the President, 1983, expressed as an average annual rate.

cc) Source: Federal Reserve Bulletin, April, 1983. Data is based on average of the rates for the first three months of CY 1983.

d) Usury rates are not applicable to corporation purchases or debts (K.S.A. 17-7105).

dd) Nonconsumer transactions could be and were contracted into the Uniform Consumer Credit Code (UCCC) in order to take advantage of the higher rate structure.

ddd) Loans for business purposes were exempted from usury ceilings on and after July 1, 1981.

e) Revolving credit generally extended through "seller credit cards," e.g., oil company and department store credit cards.

f) Installment credit generally extended through a contract providing for a fixed dollar amount to be paid over a fixed time period.

g) Licensed lenders could include banks, savings and loan associations, credit unions and finance companies. Additionally, purchases or cash advances obtained by use of "lender credit cards," e.g., Visa and Master Card, would be subject to licensed lender rates.

gg) Dollar amounts were adjusted to reflect consumer price index increases.

h) The definitions of consumer credit sale and consumer loan includes purchases made or debts incurred for agricultural purposes.

hh) Agricultural purposes were deleted from the UCCC, thereby exempting the purchase of goods and services for such purposes or debts incurred for such purposes from any interest rate limitation.

Kansas Legislative Research Department
June 3, 1983

EFFECTIVE RATES ON $2,000 LOANS

YEAR	OPEN END/ CLOSED END	FINANCE COMPANIES
1974	16.67	16.22
1975	16.67	19.97
1976	16.67	19.97
1977	16.67	19.97
1978	16.67	21.08
1979	16.67	21.08
1980	18.0	22.18
1981	18.0	22.18
1982	21.0	24.39
1983	21.0	24.39

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 545-N - Statehouse

Phone 296-3181

Date January 17, 1984

TO: SENATOR JACK STEINEGER Office No. 347-N

RE: INTEREST RATES

You asked how much interest in Kansas is generated per percentage point annually for open-end, closed-end, and licensed lenders.

At the outset, it must be noted that the data you have requested are not gathered in a central location, are not gathered in a uniform manner by the individual agencies which do compilations, and are not reported or gathered on the same dates.

The most recent data available show the total dollar amounts of consumer installment credit in Kansas was approximately $3.925 billion. That amount is divided among lenders and sellers as follows:

$2.050 billion	- commercial banks[1]
$733.2 million	- credit unions[2]
$689.3 million	- retailers and assignees[3]
$309.3 million	- finance companies[4]
$142.9 million	- savings and loan associations[5]

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1 FDIC, September 30, 1983 data.

2 Credit Union Administrator - Kansas and the National Credit Union Administration, June 30, 1983 data.

3 Consumer Credit Commissioner - "Reports on Kansas Uniform Consumer Credit Code, 1983." (Data are as of December 31, 1982 and include amounts reported by those who paid the fees and registered with the Commissioner.)

4 "Annual Report of the Consumer Credit Commissioner, 1982," December 31, 1982 data.

5 Federal Home Loan Bank Board (FHLBB), November 30, 1983 data.

Based upon the approximate dollar amounts of consumer installments credit outstanding, one percentage point would generate approximately $39.3 million.

I hope this data is of assistance to you.

William G. Wolff

William G. Wolff
Principal Analyst

WGW/sdp

Kansas
Credit
Union
League

1010 TYLER, SUITE 205
TOPEKA, KANSAS 66612

DATE: February 22, 1984

TO: Senator Neil H. Arasmith, Chairman
Senate Commercial and Financial Institutions Committee

FROM: Marvin C. Umholtz, Vice President
Credit Union Development
Kansas Credit Union League

SUBJECT: KCUL Position on SB 547

I appreciate having the opportunity to present the position of the Kansas Credit Union League on SB 547 by letter. My responsibilities to our association members require that I be in Wichita on Thursday, February 23, 1984.

Briefly stated, KCUL is opposed to SB 547. 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. The cooperative nature of the credit union assures that our borrowing terms will be reasonable in light of market conditions.

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.

The consumer loan rate ceiling established by SB 547 would be unreasonable. On the basis of a limited sample of credit unions, if SB 547 had been in effect during the last 12 months, anywhere from 20% to 60% of the loans made by these credit unions to their members would have probably not been made. This would have been a disservice to these members. Unreasonably low consumer loan rate ceilings result in "credit rationing."

Although the indexing provision of SB 547 is based on Wisconsin law, a close inspection of the Wisconsin Statutes (WS) reveals that a "floor" is established at 18%. The creditor may charge up to the greater of 18% per year or 6% in excess of the interest rate on 6-month U.S. Treasury bills (WS 422.201). On open-end consumer loans, the creditor and the borrower may agree to a higher rate if the yield on 2-year U.S. Treasury notes exceeds 15% per year on five successive Thursdays. The Wisconsin law also has other features, including a federal rate parity section (WS 138.041). I will provide copies of the Wisconsin Statutes if requested by the Committee.

ASSOCIATION OF
KANSAS CREDIT UNIONS
AFFILIATED WITH CUNA, INC.
AND THE
WORLD COUNCIL OF CREDIT UNIONS

Attachment II

Our mention of the Wisconsin law should not be taken as an endorsement of this approach to consumer loan rate ceilings. If economic conditions do not change dramatically and send market rates skyrocketing, the current Kansas consumer loan rate structure should prove adequate for credit union lending. However, in the event that market interest rates reach the levels of 1980-81, the upward indexing of rate maximums above a "floor" of 21% would appear to have merit.

Thank you again for allowing me to present our testimony on SB 547 in this manner. I will be back in Topeka on Monday, February 27, and will certainly respond to any questions which you or other Committee members might have on our position.

Marvin C. Umholtz

Marvin C. Umholtz
Vice President
Credit Union Development

MU/ad

cc: Senate C&FI Committee Members

The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 23, 1984

TO: Senate Committee on Commercial and Financial Institutions

RE: SB 547

Mr. Chairman and members of the committee:

Thank you for the opportunity to appear before the committee to discuss the provisions of SB 547. The Kansas Bankers Association has serious concerns about this legislation and believe that it would result in a severe restriction upon the availability of credit to Kansas consumers.

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 a result of actions by the Depository Institutions Deregulations Committee (DIDC) over the past four years, practically all the deposit instruments offered by financial instituitions now have no effective interest rate ceiling thus allow depositors to receive money market rates. Thus, as interest bearing accounts such as the NOW accounts, Money Market Deposit accounts and the Super NOW accounts have replaced the interest free checking accounts the costs of money for banks has risen to an all-time high.

However, while deregulations has occurred on the liability side for banking, 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 in banking by legislating what banks may charge for commercial, agricultural and consumer loans.

Over the years, the Kansas legislature has taken an enlightened 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 the limitations on consumer loans and, to this point, it is the only major lending area which has not been deregulated in Kansas.

Questions often arise as to why interest rates on consumer loans tend to be higher than rates charged for commercial or corporate loans. Consumer lending rates tend to be higher for several reasons. First,

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Attachment III

consumer loans tend to be smaller than business loans and therefore involve more paper work per dollar. Statistics gathered by the Federal Reserve from 608 banks in the 12 Federal Reserve Districts show the cost of making a installment loan ranges from $69 to as high as $92 depending on the size of the bank. Secondly, such loans tend to be at fixed rates of interest for several years and could become unprofitable if rates rise again. Finally, there are greater risks in consumer loans than in loans to businesses and this too must be factored into the bank's cost.

We have presented to this committee over the past several years the results of numerous studies done throughout the United States which shows 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 the practical effect of ceiling has been to "protect out" a significant number of borrowers. In Kansas, we only have to look back to events in 1981 to see a dramatic decrease in the number of consumer loans made at a time when the consumer loan rate ceiling was at 18% and prime was as high as 21%. In a recent column in the Kansas City Star, Jerry Heaster, the business and financial editor, made the following comments:

> "Remember what happened back in the 70's? Perspective borrowers in states with usury laws that stacked the deck unfairly against lenders found it impossible to get credit. All those people who wanted to buy houses, cars or otherwise put day to day purchases on the cuff were frozen out of the market. The bottom dropped out from under the economy in the states following these ill-advised policies.... In the market place, prices are nothing more than signals that tell people the most efficient and rational way to allocate scarce resources -- whether it is eggs or credit."

As Dr. Robert W. Johnson of the Credit Research Center of Purdue University pointed out in a recent publication of Monitor, a magazine on research and consumer and mortgage credit, attempts to control consumer interest rates by creating statutory ceilings which are below the money market cost of money dramatically impact the number of borrowers who will have available credit. He further pointed out in his studies 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. 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 also testified this summer before the Special Committee on Commercial and Financial Institutions during their discussions of the Kansas Uniform Consumer Credit Code and pointed out that denying consumers cash credit does not mean they are denied credit altogether. Unfortunately the alternative is worse. In his testimony before the committee, Dr. Johnson 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 may pay a fair price for credit or that borrowers will be protected from assuming too much credit. High risk/low income consumers simply turn to sales credit where they can be served through the devise of packing the cash prices with all or some portion of the finance charge. Other consumers denied cash credit may turn to the illegal loan market with rates over 1000 percent per annum."

We fully understand the legislature's concern for the necessitons borrower and the desire to make sure that type of borrower is not ill-served in the credit market. There is always 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 unrealistic ceilings, the legislature would also be creating situations where financial institutions could not grant credit to a significant percentage of their customers. Under those circumstances, it is not the financial institutions who suffer, but it is the Kansas consumer.

In his appearance before the Special Committee on Commercial and Financial Institutions this summer, Dr. Fred Miller of the University of Oklahoma Law School and a Uniform Code Commissioner made the following comments concerning usury limitations on consumer loans:

> "A final conclusion that can be drawn, in my opinion, is that a usury law doesn't help anyone. If you qualify under the legal rate, it doesn't help you get the credit. If you don't qualify, it doesn't help you. Perhaps if a person turned down would accept that decision, unwise extension of credit would be prevented, but we all know that is not human nature and plenty of evidence shows these people pay inflated cash prices to get credit or to go to loan sharks or otherwise obtain desired credit. You can no more legislate human nature than you can economics. If the cost structure and a profit cannot be accommodated within the level that the legislature has set, then either some segment is prevented from getting credit, or most probably, they are sent into the illegal market, which has some consequences of its own."

Mr. Chairman and members of the committee, we believe the passage of SB 547 would severely restrict the availability of consumer loans in any type of Kansas financial institution. Such a circumstance would not be in the best interests of the Kansas economy or the Kansas citizenry.

James S. Maag
Director of Research

ljs

Kansas lending rate idea is ill-advised

Democrats in the Kansas Senate have what they think is a better idea when it comes to helping consumers who like to buy on credit.

They want to make the cost of borrowed money cheaper and those who like to use other people's money no doubt will adore the proposal.

There's only one thing wrong with the idea, however.

It won't work.

Nonetheless, it has been described as the cornerstone of the legislative program being offered this term by the Senate Democrats.

All of which leads the conclusion that if this is the best they have to offer, the state is in serious trouble.

At a time when the entire country is going through a process of deregulation in the financial markets, Senate Democrats want to return to those golden days of yesteryear when savers existed for no better purpose than to provide consumers with cheap credit.

If this latest attempt to turn back the clock succeeds, it's a good bet that within a few months Kansans will find it extremely difficult to borrow money under any circumstances. The state's economy will start going downhill as a result.

The plan calls for linking maximum interest rates to the rates being paid on U.S. Treasury bills maturing in six months. Lenders could charge only 6 percentage

Jerry Heaster
The Star's business & financial editor

points more in interest than what the 26-week T-bill is offering at any given time. If the law were in effect now, the ceiling would be about 15 percent.

Under current law, consumer rates range from 14.4 percent to 21 percent, depending on the form of the loan and how much is being financed. Senate minority leader Jack Steineger estimates the average being charged is 19 percent.

Financial institutions, of course, would like to see all restrictions removed and allow the marketplace to set the rates.

While this self-serving approach is to be expected from lending institutions, it's in reality the best way. That's not what consumers want to hear, but it's true nevertheless.

What must be remembered is that those who make the loans are only middlemen in the process of bringing together savers and borrowers.

The institution's profit is the difference between what they must pay for money and what they can charge for it.

If the state of Kansas creates a system whereby lending becomes unprofitable, the available money will just go to other states where the credit markets are being allowed to function.

What's remarkable about this latest bit of foolishness in Topeka is that those who are pushing this law are ignoring reality: If unrealistically low interest rates didn't work in the '70s, when the market was regulated, what makes anyone think they'll work now that the market is deregulated?

It's insane when you stop to think about it.

Remember what happened back in the '70s? Prospective borrowers in states with usury laws that stacked the deck unfairly against lenders found it impossible to get credit. All those people who wanted to buy houses, cars and otherwise put day-to-day purchases on the cuff were frozen out of the market. The bottom dropped out from the under the economy in the states following these ill-advised policies.

It not a matter of what's fair and what's not. It's just the way the real world works.

In the market, prices are nothing more than signals that tell people the most efficient and rational way to allocate scarce resources—whether it's eggs or credit.

Anyone who tries to manipulate the pricing mechanism always risks screwing up the market in a way that serves everyone badly.

Unfortunately, even those who can understand the price function as it relates to most everything else lose sight of it as it pertains to the money markets—probably because of age-old cultural biases against moneylenders.

Even so, aside from the occasional dumb legislative proposal aimed at winning votes from consumers, where is it written that those who depend on borrowed money should be subsidized by those who have money to lend?

In a nationwide deregulated market, competition is making it increasingly difficult for institutions to charge more than the market will bear when it comes to making loans. Moreover, regulated rates aren't always best for borrowers because in times of falling interest rates, they're likely to become floors rather than ceilings.

While this bit of mischief in Topeka may play well with uninformed voters who don't understand how markets work, it won't play at all with the markets. And if it ever sees the light of day as law, Kansans had better prepare for some tough times and lots of hassles.

FRB - FUNCTIONAL COST ANALYSIS

		288 DEPOSITS	BANKS $ 50M-$200M
ALLOCATION OF INSTALMENT LOAN EXPENSE			
1	ACQUISITION EXPENSE	$	236,559
2	MAINTENANCE AND LIQUIDATION EXPENSE		281,841
3	TOTAL	$	518,400
UNIT COST CALCULATIONS			
4	ACQUISITION EXPENSE	$	236,559
5	NUMBER OF LOANS MADE		3,123
6	COST TO MAKE A LOAN	$	75.74
7	MAINTENANCE AND LIQUIDATION EXPENSE	$	281,841
8	NUMBER OF PAYMENTS COLLECTED		52,190
9	COST TO COLLECT A PAYMENT	$	5.40
FACTORS USED IN CALCULATION OF BREAKEVEN POINTS			
10	COST TO MAKE A LOAN	$	75.74
11	COST TO COLLECT A PAYMENT	$	5.40
12	LOAN LOSS RATE: 3-YEAR AVERAGE		.595 %
13	COST OF MONEY RATE		9.139 %
14	ANNUAL PERCENTAGE RATE ON AMOUNT LOANED		
15	NUMBER OF PAYMENT PERIODS		

* BREAKEVEN POINTS AT VARIOUS ANNUAL RATES FOR NEW LOANS

ANNUAL PERCENTAGE RATES (MONTHLY PAYMENTS PRESUMED) MATURITY IN YEARS	7.50 %	9.00 %	11.00 %	12.75 %	14.50 %	16.25 %	18.00 %
1	**	**	17,892	7,951	5,102	3,751	2,962
2	**	**	11,941	5,580	3,628	2,681	2,121
3	**	**	9,467	4,610	3,032	2,250	1,784
4	**	**	8,033	4,033	2,679	1,996	1,585
5	**	**	6,995	3,630	2,433	1,819	1,447
6	**	**	6,244	3,323	2,245	1,685	1,338
7	**	**	5,658	3,077	2,094	1,577	1,258
8	**	45,626	5,184	2,874	1,969	1,487	1,188
9	**	32,036	4,791	2,702	1,862	1,410	1,128
10	**	24,637	4,460	2,554	1,770	1,344	1,077

* THIS TABLE IS A GUIDE FOR OVERALL POLICY, NOT FOR USE IN EVALUATING SPECIFIC LOANS.

Attachment IV

F ary 23, 1984

Presentation to the Senate Committee on Commercial & Financial Institutions regarding SENATE BILL # 547.

Mr. Chairman & Members of the Committee:

My name is Onis L. Lemon. I am here today on behalf of two different industries in opposition to Senate Bill # 547. First, I am Senior Vice President of Commerce Bank & Trust here in Topeka and, second, I also serve as treasurer and board member of the Kansas Manufactured Housing Institute.

In the loan department at Commerce Bank, we handle both direct and indirect financing of new and used mobile homes. If Senate Bill # 547 is adopted it most assuredly will have an adverse affect on lending policies of financial institutions in Kansas. The main effect would be on financing of <u>used</u> merchandise. This part of the market would probably dry up. In most cases <u>used</u> merchandise, when it is financed, brings a higher interest rate than <u>new</u> merchandise. The rates set by Senate Bill #547 would not allow the risk & financing of a great number of these used units. We are still of the opinion that the market place should set the rates, and the consumer, being more educated today than ever before, will seek out and find the best rate for whatever purpose he is borrowing for.

In addition, if this bill is adopted, the small loan, as we know it today will totally disappear from the market place. The smaller loans require higher interest rates to justify the acquisition cost.

From the standpoint of banker and Manufactured Housing Institute Member, I feel the adoption of this type of legislation would be a step backwards for the State of Kansas and would most certainly penalize a great number of Kansas consumers and dealers.

I hope the Committee will consider this Bill as a <u>deterrent</u> to consumer lending in Kansas, and therefore, will oppose Senate Bill # 547. Thank you.

Onis L Lemon
Sr. V. P.
Commerce Bank & Trust

Attachment V