#12

HOUSE BUSINESS AND INDUSTRY COMMITTEE

January 23, 1981

SUMMARIES FOR

HOUSE BILL 183 -

Introduced by Rep. Fabrega and others, amends state's detached bank facilities law to increase number of remote teller facilities allowed each bank. In a city of 50,000 or more, a bank may have three detached facilities. In a city under 50,000, two detached facilities will be allowed. In both size classes, one detached facility may be no more than 1,000 feet from the bank; the other facility or facilities may be located up to three miles beyond the city limits. No facility may be closer than 1,500 feet from another bank or detached facility.

HOUSE BILL 238 -

Introduced by Rep. Fabrega and others, creates a new concept, "regulated lender," to be exempt from interest limits and usury statutes. "Regulated lenders" include chartered financial institutions and state and federal government agencies.

HOUSE BILL 239 -

Introduced by Fabrega and others eliminates the ceilings on finance charges on retail installment contracts and provides that seller and buyer may agree on the rate. Also stricken from the law are the provisions for minimum finance charges in agreements on refinancing of automobiles.

HOUSE BILL 240 -

Introduced by Rep. Fabrega and others amends the same section of the law as above but only in regard to automobiles by providing that seller and buyer may agree on the finance charges.

HOUSE BILL 241 -

Introduced by Rep. Fabrega and others amends the same section as above but only in regard to manufactured structures or recreational vehicles by allowing seller and buyer to agree on the finance charge.

HOUSE BILL 242 -

Introduced by Rep. Fabrega raises the ceilings on finance charges on automobiles, industrial or construction equipment, manufactured structures or recreational vehicles and other goods and services, by 2% or 4% depending upon the category and the principal balance.

HOUSE BILL 243 -

Introduced by Rep. Fabrega and others, generally revises the fees and interest rates on installment sales and loans by raising the transfer of equity fee from $15 to $50 and setting the ceiling on finance charges at the greater of 12% per year or 7% higher than the discount rate on 90-day commercial paper. The minimum charge on any retail installment contract is raised from $20 to $25. Minimum charge for extension of a contract is $10. Also provided is a delinquency fee of the lesser of $5 or 5% of the installment.

HOUSE BILL 244 -

Introduced by Rep. Fabrega and Sen. Blaylock, raises the maximum interest chargeable by a credit union from 1-1/4% per month to the greater of 18% per year or 5% over the discount rate on 90-day commercial paper.

HOUSE BUSINESS AND INDUSTRY COMMITTEE

Rep. William Ray Jensen, Vice Chairman of the B&I Committee, called the meeting to order January 23, 1981, at 8:00 a.m., in auditorium of Highway Building, Helena, MT. All members of the Committee were present. Bills to be heard were HBs 183, 238, 239, 240, 241, 242, 243, 244.

HOUSE BILL 183 -

REP. W. JAY FABREGA, House District #44, Great Falls, chief sponsor, said HB 183 would allow Expanded Detached Facilities for Banks, and would affect only Great Falls and Billings. See EXHIBIT A for an explanation of the mechanics of HB 183.

JERRY WALLANDER, President of the Montana Bankers Association, spoke in favor of the bill. Philosophically, the Montana Bankers Association states its position as being opposed to branch banking, but the tightly restricted operations allowed by Rep. Fabrega's bill would help banks compete with other types of companies. He presented the following as a basis of consideration in changing the current law: (a) extending bank customer facilities should be accomplished by amending the present law; (b) no additional detached facilities shall be closer than 1500 feet of an existing bank; (c) extended bank facilities shall geographically be limited to three miles from the corporate city limits; (d) for communities of over 50,000 people, there shall be three extended facilities; (e) one additional facility shall be granted banks in communities of under 50,000 people. This is the position taken by the MBA by the elected board.

WARREN VAUGHAN, Vice President of the First Northwestern Bank of Billings which is owned by Northwest Bank Corporation which is headquartered in Minneapolis, supports recommendations of the MBA as expressed by MBA President for HB 183. He feels the important points when talking about expanded facilities are competition, service, and basic fairness. He feels the banks need the right to compete with the savings and loans and credit unions who are able to branch and can now offer nearly all of the services a bank can. No particular bank corporation or group has a monopoly on good service. Banking is a people business and the independent bank can survive as well as the out-of-state holding company bank if they offer good service. He refutes the idea that this bill will lead to excess banks and suggests that three-fourths of the states in the U.S. have some sort of expanded facility law and he feels this is the best answer for Montana. He states that this bill does not ask for county-wide or state-wide expansion, but only for expanded facilities within communities. He concludes by saying that the consumer is the one who will benefit most from this bill by having better access to banking facilities.

LYNN GROBEL, President of the First National Bank of Glasgow, an independent bank probably the 7th or 8th largest independent bank in the state, and director of the First National Bank of Hinsdale in which he shares in the controlling ownership which bank is considerably smaller, supports the position taken by the MBA and their directors. He believes HB 183 is good legislation as it will enable banks that want to provide additional customer service which presently may be provided by their competitors in the financial community.

L. N. SHONKWILER, President of the Ravalli County Bank of Hamilton, suggests that there are many communities in the state of Montana that are not served by any financial institution, and that the three-mile limit is too restrictive. He would like to see the law extended so that small communities having banking facilities could service other communities that have no banking facilities.

ROBERT H. WALLER, President of the First Bank, Billings, supports HB 183. Over 51% of their customers live beyond a 3-mile limit from their banking facility. This bill would provide better facilities for those customers. This is not branch banking - that is left to the savings and loans. Detached facilities would allow better service to the public, conserve energy, and establish a measure of competitive parity among Montana's financial institutions. See EXHIBIT B for further testimony.

There were other proponents who, because of time limitation, did not get a chance to testify. Their names are on the Visitors' Register.

OPPONENTS -

HAROLD PITTS, representing the Montana Independent Bankers, is opposed to HB 183. He said this is a perennial bill, it has been before the Legislature before, was killed, and is now back again. HB 183 is not necessary as there is already a vehicle on the books that will take care of this problem. It is the electronic funds transfer bill allowing the use of the ATM - Automatic Teller Machine that will provide all the services that HB 183 would allow to be provided with a detached facility, and this can be taken three miles beyond the city limits.

Page 3, lines 1-6 allows the opening of deposit accounts which is not allowed for a detached facility in present legislation. It can also serve as a loan operation because you can open checking accounts that have automatic overdraft privileges on which they can charge about 18% for overdrafts.

There is no great public outcry for this legislation - it is being proposed basically by the three major out-of-state bank holding companies which are scattered throughout the state of Montana. There was never any public participation when the oversight committee was studying this situation during the interim demanding this type of service.

He feels these three holding companies - the First Bank Stock out of Minneapolis, Northwest Bank Corporation out of Minneapolis, and the Western Bank Corporation out of San Francisco - want to render this service in order to get larger and serve Montana businesses. Of the 22 largest banks in Montana, the three out-of-state holding companies own 18 of them. There are 90-91 cities in Montana with banking facilities and the major holding companies operate in 16 of these cities. They have stated this morning they are losing their position, but some figures back to 1965 show they are not losing their position. In 1965 these three holding companies had total assets of about $938 million. First Bank Stock had 39% of that; Northwest Bank Corp. had 19%; and Western Bank Corp. had 7%. In 1979 the 16 cities they operate in in Montana had bank assets of $1,736 million or 40%, Northwest Bank Corp. had $549 million or 19%, and Western Bank had $210 million or 7%. First Bank Stock has actually gained 1% of total bank assets; Northwest still had 19%; and Western Bank still held 7% at the end of 1979.

They don't seem to be losing their position. If competition is taking it away, it is not necessarily because of location. The savings and loans and credit unions have been much more aggressive in promoting their own cause. These three out-of-state holding companies own 16% of the banks in Montana, they have 25 units out of 163 units, but they represent 42% of the total assets of the state banking assets. He thinks this is getting to be a concentration - we are up against the giants. He feels Montanans should control at least half our bank assets. First Bank Stock has total assets of over $12 billion; Northwest has assets of about $12.5 billion; and Western has total assets of over $30 billion. From 1967 to 1979 in the 16 cities where these people operate there were 16 new bank charters, and they didn't suffer at all. The Western Bank Corp. out of California, operates in 11 western states providing at-home banking services in 860 affiliated banks across the western U.S. These started in Montana in 1956 before the bank holding company law was passed. They tried to find more banks but the act was passed because Congress at that time felt, and there is no reason to doubt that their minds have changed very much now, that there was a monopoly trend in banking crossing state lines and going clear across the U.S. Some feel that federal legislation in the future will change Montana law.

President Carter had a committee formed to study this very issue on a nationwide basis because the big banks nationwide are doing the same thing as the big banks in Montana would like to do, that is expand, expand, expand. First City Corp. of New York probably is one of the most aggressive outfits and they have something like $111 billion in assets already, and they want to get bigger so they are promoting very heavily in Congress. But it appears there will be very little change in the Federal Banking structure in the next two to four years. See EXHIBIT C.

He feels the three major out-of-state holding companies operating in Montana are supporting this legislation. He represents about 94 independent banks through the Montana Independent Bankers Association. Jerry Wallander, President of the Montana Bankers Association is an independent banker himself. Mr. Pitts solicited the committee's support in killing HB 183.

PHIL SANDQUIST, President of the First Security Bank, Bozeman, feels this is a foot-in-the-door type of proposition that you can call branch banking or monopoly banking. Montanans are not asking for this. The First Bank system, Northwest Bank and Western Bank Corp are wanting this and they control 41-42% of Montana's assets today. They call monopoly banking something for customer's service and convenience, but we all know that the customer is going to pay. Three banks control 86% of the monopoly banking system in Arizona.

Under branch banking bank presidents, local bank directors, local stockholder controls are done away with. This is not a deregulation, it is a shift of your banking controls from Montana to Washington, D.C., because these are holding companies. Monopoly banking doesn't bring in any new capital, it is irrevocable, local people can no longer be assured their deposits are going to remain in the community for the benefit of local borrowers. You can't repeal monopoly banking any more than you can unscramble eggs. No state has ever established branch banking by the vote of the people. In Colorado a referendum was voted down 3 to 1. See EXHIBIT D. Mr. Sandquist hoped Montanans are not going to stand by and

and let the out-of-state interests line their pockets with Montana dollars.

A. JACK KING, Chairman of the Board of Valley Bank, Kalispell, also serves as Chairman of the Board of the First Security Bank, Kalispell. Of the 14-15,000 banks in the U.S. only about 1260 branch or have some type of branching - 11,000 plus do not. Between 1959 and 1976, the total number of banks increased in 21 states but only 290 used some type of branching. During the same time banks in 16 states utilizing limited types of branching decreased by 788. In the 15 states operating with unit banking such as Montana does, the number of actual banks increased by 1771. If you average the total number of main office operations plus the branches in the branch state population, you will find there is one bank or branch for every 4,439 people. Keep in mind that a branch or a part of a branch is never competitive with its sister branch or its main office. By dividing the competitive factors into the total main offices, you will find there is one competitive factor for about every 52,000. In Montana where we have unit banking you will find we have one competitive entity or bank for every 4700 plus people. We are already serving the public better than in the branch states or those that have some form of branching. The consumer is being well served.

The small independent banks do compete well with one another, but when they decide to sell, they usually sell to one of the three huge companies because they have the money to buy them. The independents have about $4.5 billion in all of the deposits in the entire state of Montana, compared to the $12.5, $12, and $30 billion assets of the big three.

Any form of branching leads to a concentration of assets, and a corresponding lessening of competition for the consumer. It also exports the earning power of the capital, reducing the individual opportunity for you, for me, for our kids.

In Kalispell there is a large area adjacent that has about 5-7,000 people that probably deserves a bank. There is a charter proposed for a bank soon which will be called the First Evergreen Bank and will be a state bank, a comptroller of the currency bank. If facilities are allowed, each of the big banks will put a facility right out in Evergreen, and suddenly Evergreen will have three facilities on top of the new bank that has been capitalized by Montanans as a full service bank. This won't make it any easier for the new bank.

See EXHIBITS E showing condition of the Valley Bank, Helena, and the Western Bank, Bozeman. Their capital accounts for furniture and fixture accounts and property accounts are about 50% of the capital surplus - all small banks are this way. New smaller banks usually take a number of years before they have much in the way of earnings. They do not have the same opportunity as the large well-established banks in metropolitan centers. An FDIC and a State of Montana requirement is that you cannot invest more than 50% of your capital surplus in fixed assets. So these small banks could not build anything - just the big banks are going to be able to do this. And these big banks are going to go out to where the small banks are established. As far as the consumer is concerned, he has a competitive entity out there which is a full service bank. He sees no justification for providing additional services for the big banks to go out and cause problems with the small banks.

JOHN SCULLY, representing the Montana Independent Bankers Association. During the last two year period as a result of invitations from Senator Regan and her committee, no consumer showed, no advocate for the consumer showed, no one came forward to express their opinion as to whether they wanted branch banking or not.

The language in the bill will allow for deposits and credit is available. Presently you must go into the banking facility to receive that account opening service. If you support the bill, you will have opened the door for years to come to a set of circumstances he doesn't think people want or need. It costs in the range of $250-300,000 to build such a facility today, and it is the person who receives the services that pays the price for this. When an independent bank commences, it doesn't commence with a grant from Minneapolis to engage in business - it commences by going to the state banking board, showing there is a need in the community and putting forth the necessary capital to open the structure.

We learned some awful lessons in the 30's. One of the things that we had in Montana was a statute that allowed the merger of banks as a result of failures which came to our attention in 1968. Mr. Vaughan said he does not know of a state that has ever taken their retrogressive action with regards to branching - the state that did it was Montana in 1968. Our Legislature repealled that act which was being used then as a loophole for branch banking. See <u>EXHIBIT F</u>.

The picture on a national level shows the ten larger groups pushing those a little bit smaller - we see City Corporation of Minneapolis putting the heat on First National who comes out here to put the heat on the community bank system. He doesn't think we should do away with the state-owned banks that have been capitalized on sound policies, nor does the nation want to do so. When looking at the large city coporations, you are in world-wide banking now and some will say that is a strange reach for this little bill and we are overemphasizing.

He asked that the problem not be deemphasized with regard to the presentations that have been made here. By expanding the services now offered and operating, you will place those people who have placed the capital in the small banks in communities in jeopardy as a result of the siphoning of funds and the transfer of the facilities that are there. He bets there will be a big enough facility to put a desk in it to get ready for the issue. Rep. Fabrega has said before, and he thinks the philosóphy along that approach is commendable, that he is trying to provide the services to the community and he is trying to put Montana banks in a position to compete, and he respects him for that opinion, although he disagrees. He doesn't think this is what HB 183 is going to do. He hopes the bill will not be supported.

QUESTIONS -

Rep. Kitselman - within the independent banks how many have detached facilities? Mr. Pitts - all banks in Montana are individually chartered and capitalized. The ownership is the thing they question, like Minneapolis and San Francisco and these some 25 banks in the state. Under present law each bank can have one detached facility up to 1,000 feet from its main banking quarters. There are many small cities in Montana that have bank facilities that do not have a detached facility. They ordinarily have drive-up facilities connected to the main bank. The larger banks in larger cities take advantage of not only having drive-in facilities in the main building but they can go 1,000 feet and have one detached facility.

Rep. Kitselman - the question I am asking is how many banks can a state chartered holding company control? Mr. Pitts - there is no limit to in-state holding corporations having branch banks. Out-of-state can not expand since the banking act.

Rep. Kitselman - how many Montana owned holding companies are there? Mr. Pitts - Montana holding companies can only expand in Montana, not in any other state. There are two types of holding companies - one-bank and multi-bank. There are approximately 47 one-bank holding companies. Rep. Kitselman - there are three independent banks located within Billings. He does business with one facility in his neighborhood but has to travel downtown, which is totally inconvenient, to do another part of his business. His bank has automatic tellers but they are all located within 1,000 feet of the downtown area. The city has expanded east to west to approximately 20 miles. He is confused.

Mr. Pitts - the holding companies established in your area is each an individual and separately capitalized by application to the state. The one-bank holding company is usually taken for tax reasons at the federal level or for ownership and transfer to officers within. HB 183 would provide travelers check services and the ability to open an account over what is being done for you now - it won't help solve your problem.

Rep. Andreason - There are two great differences in what fair competition is - one saying we should create them - see a need for service - and also what the possibility of the cost would be. On the first issue, the definition of fair competition - as Montanans we would want to have a system whereby everyone would want the opportunity to compete and get what we want for our money. How would you see this bill as stifling fair competition? Mr. Pitts - Congress recognized in 1956 that the big ones were getting too big against the little ones. The free enterprise system gets too monopolistic. We are not doing anything in this state that would prevent Montana banks and organizations from doing what the out-of-state banks can't do in their own states. It is a case of regulating the big ones so they don't get too much bigger against the little ones.

Rep. Andreason - how would you suggest that the problem of the small community without a bank be taken care of? Mr. Pitts - this bill would not help Darby at all. There are 90 cities in the state that have banks and it isn't possible to put a financial facility in every little community in the state. Credit unions would be better able to service such a community as they utilize volunteer help and they can work on that kind of a basis. Regulatory authorities won't permit you to operate on a loss basis forever. At a cost of $300-$350,000 it just wouldn't pay off over a reasonable amount of time.

Rep. O'Hara - most retail credit unions wouldn't have to abide by distance restrictions. Businesses are not controlled by the state as are banks. If banks had no state control, we would see the opening of banks as in the early teens. Banks are more restricted now. There must be some control of the number of banks so there would not be unrestricted closing of banks as there was in the early 20's.

Rep. Jacobsen - what is your personal feeing as an independent banker and representing the Montana Bankers Association which represents the majority of Montana banks? Mr. Wallander - he testified as a Montana Bankers Association representative. During the meeting of the board of directros of the MBA, he voted against the position taken by the MBA.

Rep. Wallin - because the savings and loans are now able to perform the functions of a bank, has there been a switch to S&Ls? Mr. Pitts - no reporting date has been set, so he wasn't sure. There are bound to be some small accounts that have switched. This just became effective on January 1. He thinks the switch will come in the $100 bank checking accounts because there won't be a service charge on them.

Rep. Robbins - feels Darby needs banking facilities. He is from that area. Is there any way we can remove the three-mile limit and establish territorial limits? Mr. Pitts - thinks that is a reasonable compromise between those who want to expand beyond the three mile limit and go statewide or county wide, and those who want it to stay the way it is. He questioned very much the advisability of putting a bank there because of the chance of not making it.

Rep. Vincent - any bank could establish detached facilities under HB 183. If small banks could not expand primarily because of some limitations on capital assets, that would cast a certain light on it; if on the other hand they are not limited that would cast a different light on it. Mr. Pitts - the law as now on the books provides that each bank can have a detached facility within 1,000 feet from the main bank. This bill says that in towns of over 50,000 each bank could have two additional detached facilities, so they would have a total of three. In towns under 50,000 you have one additional detached which would make a total of two. Every bank could go ahead and take advantage of the law if the territory justified it and they had the capital to do it with. He thought only 8 or 10 cities in the state would take advantage of this now.

Rep. Vincent - they could do this if they chose to do it and had the money? Mr. King - because of certain requirements many small banks would be prohibited from taking advantage of this. Most new banks starting out have 50% of their capital assets in fixed assets which take time to depreciate out before you can build another facility which would bring it back up to that 50% limit. The only other choice is to increase the capital in the bank by selling more stock or whatever it is necessary to do to get more capital.

Rep. Vincent asked to be given a list of the banks Mr. Pitts represents that would be in a position to build a detached facility under the limitations that are in the law at the moment. Mr. Pitts said he would supply this.

Rep. Vincent - is there something else that should be thought about at this time? Some banks have spent a lot of money on new facilities expecting to have an area for operation, and the expension of detached facilities would have an adverse affect on them. Mr. Wallander - it would be possible to have too many detached facilities in a small area if all banks chose to expand.

The opponents time had been used, so the Chairman asked Rep. Fabrega to close.

Rep. Fabrega closed saying this hearing was on HB 183 which is the detached facility bill, and not on SB 5 which is a branching bill.

One of the comments made is that the public is not here asking for this. Who is going to drive to Helena, take a day off work and be here in the middle of a territorial fight between bankers? All the public wants is banking service conveniently located to them, and they don't care who provides it. These arguments were made when the established banking community in the downtown area wanted to provide drive-up windows. They had to be given the opportunity to establish a detached facility to accommodate the drive-in. Most any new bank being built now has the detached facility directly connected to it. This was fought just as vehemently then as allowing two more is.

Once you have established an account with a bank, you can pick up your phone and conduct your banking business, so the important thing is where you first establish your banking relationship. Because of the energy crunch and the higher cost of fuel, and in some places the downtown congestion, it makes far more sense to have a detached facility where people can receive funds, cash checks, or open new accounts, which HB 183 would allow them to do. A supermarket would be a potential place to have one. The idea that every detached facility is going to cost $250,000-$300,000 is ridiculous. A detached facility of an independent or a national bank could rent so many square feet of a shopping center such as the S&Ls are doing.

The S&Ls and credit unions are not here opposing this bill - they could not do so in good conscience since they already have the ability to branch. Loan officers are available to him by phone, which is closer even than a loan officer should one be placed in a detached facility.

An additional benefit besides customer convenience of HB 183 is that if the federal regulatory system allows interstate branching in the near future, those banks that are already in place in Montana, whether they are independents or nationals, will be in the unique position of being able to move in their loan officers and they are there. This would preclude the chances of outside big interests being able to capture most of Montana's banking field since that option would not be nearly as open to them.

ATM's do not serve well as detached facilities. The three mile or the 1,000 feet restrictions are all compromises. He would say that at the discretion of the directors of banking in Montana, a detached facility would have to be applied for and if were feasible, it should go there. He would eliminate all those limits, because limits run into situations where you could have better served the customer if you could have gone another mile. But these limitations are there just to appease somebody.

He thinks the whole question here is that some banks don't want to provide better customer facilities, and that they would rather use their money to make money rather than providing a detached facility and offer a better service to their customers. Because they don't want to do this, they feel they have the right to prevent those that do want to do so from being able to do so. He hopes the committee will find in the interests of the consumer that HB 183 should pass.

HOUSE BILLS 238, 239, 240, 241, 242, 243, 244 -

REP. W. J. FABREGA, House District #44, Cascade County, chief sponsor explained these bills concern themselves with regulated lending institutions. Due to the fact that we have several credit acts in the statutes, all these bills are necessary in order to address the problem.

HB 238 deals with banks, savings and loans, co-ops and any agency of the federal or state government that is in a position to lend money and comes under regulation.

HB 239 addresses the retail sales credit act, and Rep. Fabrega opened the hearing with this bill because it does address the problem that the business community is experiencing with the present economic fluctuations. The Montana usury laws are determined for lenders by a floating formula based on the federal discount rate and allow so many points under one circumstance and so many more points for another circumstance. That indirectly controls the Retail Sales Credit Act as to the supply of money to people in the retail business. Credit is a convenience to their customers by offering financing of merchandise they sell. To compound that floating situation we have the present limited or ceiling interest rate that can be charged for retail sales financing.

There is an additional act that is the Consumer Finance Act. There is a bill coming on a bit later, sponsored by Rep. Fabrega, that addresses what is commonly known as the finance companies. Their operations do not enter into the bills being presented today.

HB 239 would simply remove all of the fictitious ceilings imposed in the years past in the retail sales financing. It scratches most of the present language - it goes from page 1, line 12 to page 4, line 2, and that is the whole substance of the bill. It reads "Notwithstanding the provisions of any other law, the finance charge included in a retail installment contract shall be at a rate agreed upon by the retail seller and the buyer." That is the whole thrust of HB 239. We have tried so diligently in the past to determine what was thought would be a prudent ceiling for financing retail sales, but with the ever-changing economic conditions the merchants find themselves in a position of not being able to finance their sales. Take automobiles, unless you have a finance program through your manufacturer, you are totally out of the market because by the add-on rate, presently you can charge up to close to 13%, and yet banks are charging a friendly rate of 16-17%.

Supply and demand is what determines the cost of money, but we also have the federal ruling powers and the money market determines discount rates and so Montana is subject to decisions made in Washington even though they could have very little relationship to what is going on in Montana with the supply and demand of money.

JERRY RAUNIG, Executive Vice-President of the Montana Automobile Dealers Association (MADA), which is the trade association for the franchised new car and truck dealers of this state. See EXHIBIT A for a detailed analysis of the car dealers situation. Included is a chart of interest rates allowable on new vehicles as well as a chart showing monthly payments at varying interest rates. He urged the committee to give HB 239 a Do Pass with an immediate effective date.

LARRY HUSS, Montana Savings and Loan League, Helena, thought a full appreciation of the problem that has been presented before the committee today necessitates a little understanding of the history of the term 'usury' and the law that controls it. Usury began back in pre-biblical times. It was a concept that was outlawed by the Jewish religion, by the Moslem religion, by the Buddists. It is curious to note that in each one of those they permitted you to charge usury or interest to infidels, gentiles, non-believers. When the Christians took up the concept, they modified it somewhat and they believedyou could not charge interest simply to hold the money, but you could charge it after a point in time after the money was back. When that concept came across the seas to America, the economic reality of the world was changing rapidly and it was a common practice in almost all of the western world that interest was a legitimate charge for the use of money.

It become recognized as money for sale, and that people were allowed the opportunity to make a profit from the sale of their money as well as a profit on the sale of any other commodity. In Montana, the first usury laws appeared in the late 1800s. It was a very short time thereafter that exceptions began to appear. Again remember, usury does not connotate a certain rate of interest. Usury has always been defined as a prohibited amount of interest, prohibited by the laws of the land, and it varies from place to place, and from lender to lender. It is not a foreign concept. It was a concept that was brewed up as a law to protect against unscrupulous people.

Today the type of bill that you have before you involves regulated lenders who are under strict control by the state and federal government. A variety of retail merchants who are under the strict scrutiny of laws - you are not talking about the loan sharks, the money lenders in the temple and other such people - you are talking about a group of business men and regulated lenders. The savings and loan system has recently been allowed by the federal law to compete in the market in a broader perspective thru 'NOW checking accounts' and can now issue commercial paper.

Savings and loans are desirous of participating in the market, but they cannot do so if their money costs them more than they get in return. Until such time as the Legislature and the market place can dictate the price of money, for a variety of loans, you are artificially suppressing markets. They support both HB 238 and HB 239.

JOE DIEHL, Senior Vice President at Federal Savings and Loan, and Director of the Montana Savings and Loan League, support and are in favor of HB 238 - elimination of the usury ceiling for all regulated lenders including savings and loans and building and loan associations. Because of the influx of various additional sources of money and credit through the increasing number of financial intermediaries such as banks, savings and loans, credit unions, mortgage brokers, mortgage bankers, from outside the state as well, an additional supply of money and credit has made this a highly competitive commodity not really requiring usury ceiling restrictions.

JEFFRY M. KIRKLAND, Director of Governmental Relations, Montana Credit Unions League, supports both HB 238 and HB 244 because they affect the 25 state-chartered credit unions, but if the committee determines that there is industry-wide need for relief from current usury ceilings, then they preferred the relief granted under HB 238. See his explanatory testimony EXHIBIT B.

JOHN CADBY, Executive Vice President of the Montana Bankers Association which represents 165 banks in Montana. They are in support of HB238 and HB 239. See his detailed testimony EXHIBIT C.

GENE GODFREY, Montana Equipment Dealers Association, and also employed by a tractor and equipment company in Billings which has stores in Billings and Sidney, addressed his remarks more to HB 239 as it pertains to the industrial equipment and construction equipment businesses.

In 1975 they strongly supported a revision of the retail installment sales usury limits from 7% to 9% add-on on industrial and construction equipment. This was passed and one of the concerns at that time was the interest rates being charged were too high - that everyone would immediately go to the 9% add-on. It is very interesting that in 1974-1975 is when we met the all-time high of 12% prime and after that the interest rates came down from 1975 to date. It wasn't until 1979 that we ever charged the full 9% add-on on construction equipment. Up until that time it fluctuated in the 7% range. This is a very competitive system, and we have to charge the interest rate that is competitive in the market.

Their competitors are not only within Montana, but the largest competitor is in South Dakota, and the usury rates in Montana put them at a direct disadvantage when competing with a dealer in South Dakota because they have no interest limits. When they go into a price-pool, they have to bid high or they will lose money because of the cost of carrying the contract. They finance quite heavily and it isn't an area that they necessarily would like to be in - prefer to leave that up to the bankers, but because of the nature of their business, the cost of equipment eliminates a lot of the banks in Montana to be able to do the financing they need. Some of their equipment costs as much as $1 million, and a lot of Montana banks do not have a $1 million dollar lending limit.

If a bank does have a $1 million lending limit, the customer is reluctant to borrow because that uses up the contractor's line of credit for operating capital at the bank. Therefore, the customer leans on them quite heavily. Likewise, since the monetary control went into effect in April of 1979, or 1980, they have to borrow their money at whatever the banks are charging, and under the usury laws they have no opportunity to pass that charge on.

They do not feel that the retail installment sale usury limits have any practical application because of the competitive nature of retail sales. He urged the committee to support HB 239.

CURTIS B. HANSEN, Executive Vice President of the Montana Retail Association, Helena, said they are in a rather unique position in retailing in that they need to be able to borrow money and also have to be able to extend credit to their customers. They have to work hand-in-hand with the lending institutions or they just won't operate. There are a lot of problems created because of the wild fluctuation in interest rates until they have arrived to where they are now. See more complete testimony in his EXHIBIT D. He supports HB 239 if it is not amended.

JOE TAYLOR, President of T & W Chevrolet and the Northern Leasing Co. of Missoula, and a member of the State Banking Board, favors HB 242. See his testimony EXHIBIT E.

Rep. Fabrega said the allotted time for proponents was used up, and he asked the chairman if it would be alright for those who had travelled so far to speak in favor of this bill to stand and identify themselves for the benefit of the committee. Chairman Jensen approved, and many, many people stood and gave their names and business interests and stated support for these bills. Many are listed on the Visitors' Register.

OPPONENTS: None

QUESTIONS -

Rep. Vincent - what is the phase out process on Regulation Q? Is that the one that phases out interest on pass books? He was told it is expected to phase out over a period of six years, and we are in about the second year now. Rep. Vincent - are the charge cards such as Visa and Master Charge covered in this act? Rep. Fabrega - they are covered by the revolving credit act and that is yet another act. HB 239 takes the 18% interest charge off revolving credit, leaving no limit as has been done in some other states.

Can you give us some idea of what you think would happen in the installment credit business if that were eliminated? Mr. Curt Hansen, Montana Retail Association, told the committee what happened in Arizona with the Visa, Mastercharge, Sears, etc., when the ceilings were lifted. First, everyone got a little greedy and the interest rates went up two points. The competition brought it right back down, it dropped a little bit below the levels they were before, and now it is just about at the same level.

Rep. Vincent - sees this as a very sensitive area because just about everyone carries one of those things around. If this is made immediately effective everyone is going to be pointing out what may be a dramatic increase in interest rates. Mr. Hansen said they also found that the credit card companies were easier to get along with. They didn't have so many excuses for a $20 annual charge or mandating certain things to their customers.

Rep. Fabrega closed saying the reason for having seven bills here is because if one approach is not satisfactory to the committee we have the other options available. There is a limitation as to when you can introduce bills and so some of these bills are backups. But there are a couple of areas on transfer fees that are on another bill that we probably need to incorporate into the committee decision. A committee bill may be best.

Ceilings, in his opinion, have worked badly. When the ceiling is too low, and the cost of money on a national level (and that is what we are competing with) goes above those ceilings, the consumer simply has to wait until that pressure comes off before he or she goes out to buy that automobile, etc. On the other hand, the ceiling works against the consumer when the rate goes below the ceiling because there is a tendency for some people to interpret this as what the Legislature told us to charge.

He was surprised to look at records of 1963 when you could finance a house for 5 1/2% to 6%, and commercial borrowing was between 8% and 9%, depending on the amount you were borrowing. Automobiles and the retail field was hanging around at 12.89%. In other words, it provides a price fixing by statute for an industry to use as a bench mark. Without that, nobody knows where the competition is. In his own business, when his volume decreases he has to offer a better price, and that is really what the marketplace is all about.

If, as he hoped would be done, usury ceilings are removed by the passage of HBs 238 and 239, the next session will also enjoy a lesser number of bills because none of these special categories within these acts will have to be addressed. That will go a long way towards aiding the legislative improvement committee. The reason he is carrying all of these bills is because bank presidents, auto dealers, finance companies, insurance people, everyone that is in business, he represents because they are in his House District. That is why he fought so hard not to limit the number of bills he could introduce or these people would have been left out in the cold.

The meeting adjourned at 10:45 a.m.

REP. WILLIAM RAY JENSEN, Vice-Chairman

Josephine Lahti, Secretary

VISITORS' REGISTER

HOUSE B & T. COMMITTEE

BILL 1[illegible]3

Date [illegible]

SPONSOR [illegible]

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Earl Johnson	Helena, MT.	First Bank [illegible]	Yes	
Harold Pitts	" "	Mont [illegible]		X
J. B. Wallacell	Froid, MT	1st State Bk - Froid	✓	
Kent Kleinkopf	Helena MT	Montana Holding Co's.		
N. Shorkwiler	Hamilton MT	Ravalli Co. [illegible]		✓
Bob Waller	Billings	First Bank	✓	
B Andrews	Helena	Northwestern [illegible] Bank	✓	
Vernon Vaughn	Billings	[illegible]	✓	
[illegible]	Helena	Northwestern [illegible]		
Stan Hill	Billings	First Bank-West Blgs	✓	
Geo. T. Bennett	Helena	MT. BKRS ASSN	✓	
M. D. Warden	Missoula	First Bank Western	✓	
Byron K [illegible]	Shelby	First State Bank		✓
[illegible]	Bozeman	1st [illegible] Bank		
John [illegible]	"	Mont. Ind. Bankers		✓
E. Dean Ret	Helena	Valley Bank		
[illegible] King	Kalispell	Independent Bankers		✓
Chuck Peterson	Great Falls	Montana Bank	✓	
Tim Stearns	Helena	Intern		
[illegible]				
[illegible]	Great Falls	[illegible]	✓	
[illegible]	[illegible]	[illegible]		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HB 183 -- Expanded Detached Facilities

Q. What is the purpose of HB 183 ?

A. HB 183 will enable Montana banks to provide more convenient service to their customers by permitting additional detached facilities.

Q. What are "detached facilities"?

A. Detached facilities are limited-service banking offices located away from a main banking house. They generally take the form of drive-in autobanks. Under present Montana law, a bank may operate only one detached facility, at a distance not more than 1,000 feet from the main banking house.

Q. How would HB 183 change the present law?

A. HB 183 would permit banks in municipalities with populations of 50,000 or more to establish a total of three detached facilities -- one limited to a distance of 1,000 feet from the main banking house (as permitted under present law) and two which could be located up to three miles from the corporate limits of the municipality in which the bank's main office is located. For example, a bank in Great Falls could operate one detached facility not more than 1,000 feet from its main office and two additional facilities up to three miles beyond the city limits of Great Falls.

Banks in municipalities of less than 50,000 population could establish a total of two detached facilities -- one limited to 1,000 feet from the main office (as permitted under present law) and one additional facility which could be located up to three miles from the city limits.

Q. Does HB 183 affect Montana's prohibition of branch banking?

A. No. Detached facilities are not branch banks. The services which they can provide are limited, whereas branches are full-service units. For example, loans can be made at branch banks but that service would not be permitted under HB 183 .

In addition, the detached facilities authorized under HB 183 are geographically limited to a distance of not more than three miles from the limits of the municipality in which a bank's main office is located.

Q. Will HB 183 principally benefit the larger banks or larger banking organizations?

A. No. HB 183 will benefit any bank in Montana which wants or needs to provide more convenient service to its customers. It will also enable Montana banks to more effectively compete with the non-bank sector of the state's financial services industry.

Q. Who will benefit most from HB 183 ?

A. Montana's banking customers. Banking services will be made more convenient as additional detached facilities are established.

NAME Wayne Vaughan BILL No. 183

ADDRESS 1st N. W. Bank

DATE 1-27-81

WHOM DO YOU REPRESENT

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

CS-34

NAME Lynn Grobel BILL No. HB 183

ADDRESS Glasgow MT DATE 1-23-81

WHOM DO YOU REPRESENT FNB Glasgow & Hinsdale

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME ______________________ BILL No. ________

ADDRESS ______________________ DATE ________

WHOM DO YOU REPRESENT ______________________

SUPPORT ____________ OPPOSE ____________ AMEND ____________

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

n CS-34
9

NAME BOB WALLER BILL No. 182

ADDRESS FIRST BANK, BILLINGS DATE 1/23/81

WHOM DO YOU REPRESENT

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

TESTIMONY GIVEN BEFORE THE MONTANA HOUSE OF REPRESENTATIVES

COMMITTEE ON BUSINESS AND INDUSTRY

IN SUPPORT OF H. B. 183

In Summary of and Supplement to remarks made before the Committee Hearing held January 23, 1981, 8:00 A.M. by

Robert H. Waller, President
First Bank (N.A.) - Billings
Billings, Montana 59101

This statement is in support of H. B. 183. Billings, according to the recent census, has a population of approximately 75,000. The population concentration extends six miles East and West from the central business district where First Bank is located. Growth will continue to the East and West away from the central business district.

We are a retail or consumer-oriented bank. At the year end, we had outstanding consumer loans of some $60 million, represented by over 10,000 accounts. This is the largest installment loan department between Minneapolis and Seattle. In addition, we serve another 30,000 checking, savings, and loan customers.

A demographic study indicates that 51% of these customers live over three miles from First Bank Billings.

We support the amendment to the existing statute as a measure to more adequately serve these consumers, and as an energy conservation measure - by providing limited banking services in areas where our customers reside.

This is not branch banking legislation. Section 5-1028 specifically prohibits branch banking -- Under Paragraph 1 of Section 5-1028, detached facilities are defined and the limitation of the services of such a facility is outlined. It is not the intention of this legislation to expand services, but merely to allow additional detached facilities to better serve the public, conserve energy, and establish a measure of competitive parity among Montana's financial institutions.

I urge a unanimous DO PASS for H. B. 183.

NAME Pat Melby BILL No. [illegible]

ADDRESS P.O. Box 1144 DATE [illegible]

WHOM DO YOU REPRESENT [illegible]

SUPPORT [illegible] OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

Exhibit C

What About Congress?

The comments of the new leadership of the House and Senate Banking Committees make it very clear that the interstate banking issue will not be on the front burner of the Congress. House Banking Committee Chairman St. Germain has promised the issue a hearing, while stressing that "interstate branching, to understate the case, is a highly emotional issue, and I do not think that this Committee will be making major changes without the most thorough study of its own." Senate Banking Committee Chairman Garn in a recent TV interview stated, among other things, **"I fear in the long run that we will see 10-12 big banks in this country that have thousands of branches all over the nation. That is the real threat, in my opinion, to small banks and small savings and loans. . . . I am not willing to give up some tremendous personal services [offered by smaller institutions] in return for being dominated by 10 or 12 superbanks from whom I don't think you will get the same services."**

In this connection, it also is worth noting that when Mr. Eizenstat reported to the September ABA Banking Leadership Conference the President's decision not to release the politically sensitive report in the middle of a hotly fought election campaign, Eizenstat stated: **". . . there does not appear to be any organized support within the Congress for legislative action on the major structure issues at this time."** He called upon the ABA to address these bank structure issues and this process is underway in the ABA at both the national and the state level.

Sandquist Dr Anderson

HB 183

Exhibit D

FACT SHEET

The people **have** decided against branching.

In Colorado's November 4 referendum, voters decisively rejected a proposal to lift all restraints from branching. The margin was three to one against the proposition. This matched the vote against statewide branching in Missouri 22 years ago. The branching proposition failed to carry a single county in Colorado.

Virginia opened its doors to statewide branching and holding company acquisitions in 1961 and within 20 years lost 134 of its 207 unit banks. Only 73 unit banks were operating in Virginia in 1978.

North Carolina, with no restrictions on branching or acquisitions by multibank holding companies, lost all but 17 of its 100 unit banks within 20 years. While banking offices increased four-fold, the total number of banking firms dropped 55 percent.

Statewide banking would syphon off deposits and deprive local agriculture and business of loan funds they need. It would concentrate wealth in money centers in Minnesota and elsewhere.

Statistical evidence from federal government agency sources demonstrates clearly that branching results in high levels of concentration and leads to domination by a few large institutions.

Concentration of bank deposits and loan powers curtails the ability of small local institutions to respond to community needs, and threatens ruinous overextension by aggressive dominant banks. In small towns and villages, those purported to benefit most from expanded branching, banking offices do not increase.

> **Side effects of branching are: higher costs to the consumer, saver and borrower; higher concentration of deposits and loan powers, and the outflow of deposits from rural communites to the bigger cities.**

NAME A. J. King BILL No. 183

ADDRESS 335 Lake Hills Dr. DATE 1-23-81

WHOM DO YOU REPRESENT Independent Bankers

SUPPORT OPPOSE ✓ AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

PROSPECTUS

THE VALLEY BANK
of Helena, Montana

Shares of Common Stock
($40.00 Par Value)

These securities are believed to be exempt from the registration requirements of the Securities Act of 1933 and the Securities Act of Montana. For this reason, these securities have not been registered with the United States Securities and Exchange Commission or the Montana Securities Commission. Such exemptions, if available, do not indicate these securities have been approved by the United States Securities and Exchange Commission or the Montana Securities Commission, or that either agency has considered the accuracy or completeness of the statements contained in the Prospectus.

- - - - - - - - - - - -

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION OR BY THE MONTANA SECURITIES COMMISSION, NOR HAS EITHER PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

- - - - - - - - - - - -

Price $105.00 per Share

- - - - - - - - - - - -

These Securities Are Offered as a Speculation (3)

	Public Price (1)	Discounts & Commissions	Stock Premium or Surcharge (2)	Net Proceeds
Per Share	$ 100.00	-0-	$ 5.00	$1,000,000
Total Offering	$1,000,000		$ 50,000	$ 50,000

(1) The offering price of the securities offered hereby has been arbitrarily determined and does not necessarily bear any relation to the value of the shares. The shares are offered subject to prior sale, the right to reject orders in whole or in part, and subject to certain other conditions.

(2) This offering will be sold by the Organizers of The Valley Bank of Helena, Montana, without selling commission. There will be some expenses in connection with this offering, which will include printing, legal and accounting expenses. There will also be expenses connected with the application for charter, incorporation, construction of the bank building, and salary of the President during the period preceding approval of Charter. For this reason, the sum of $5.00 per share has been added to the offering price. If Charter is granted or not, these expenses will be deducted from the premium or surcharge of $5.00 per share, and the balance, if any, will be returned to the subscribers. All stock, including that of the Organizers, is being sold at the price of $105.00 per share.

(3) These securities are offered as a speculation. There is no guarantee the Charter will be granted and there is no guarantee of return on the investment. The securities are subject to certain risks and should be acquired only by individuals who are in a position to invest on a long-term basis.

The Date of this Prospectus is December 8, 1977.

INTRODUCTION

The following individuals, for convenience hereinafter referred to as the Organizers, have undertaken to prepare an application for a charter for the proposed Valley Bank under the terms of the Montana Bank Act, and have subscribed to capital stock as follows, to-wit:

NAME	OCCUPATION	SHARES
JAMES T. HARRISON, JR.	Attorney	500
JEROME T. LOENDORF	Attorney	500
JOHN P. POSTON	Attorney	500
JOAN POSTON	Investor-Businesswoman	500
EDMUND R. "CHUB" MUNGER	Land Developer	500
E. DEAN RETZ	Banker	500
THOMAS F. DOWLING	Attorney	500
VINCENT A. AMICUCCI, M.D.	Opthalmologist	500
HARRIS D. HANSON, M.D.	Orthopedic Surgeon	500
ROBERT J. PECCIA	Consulting Engineer	500
JOHN A. "JACK" RIES	Businessman	500
GORDON MERRILL	Developer	500
NEIL W. MOLDENHAUER	Rancher	500
GARY L. MIHELISH	Dentist	500

EXHIBIT A

SOURCE AND APPLICATION OF FUNDS

Source of Funds:

10,000 shares Common Stock to be sold at $105.00 and allocated as follows:

Par Value - $40.00	$ 400,000.00	
Surplus - $40.00	400,000.00	
Undivided Profits - $20.00	200,000.00	
Surcharge at 5% - $5.00	50,000.00	
TOTAL FUNDS		$1,050,000.00

Application of Funds:

Capital Assets for Bank

Land and 5,000 sq. ft. Building	$ 295,000.00	
Fixtures (Vaults, etc.)	47,072.00	
Furniture (Teller line, etc.)	6,146.00	
Machines	15,368.00	
TOTAL CAPITAL ASSETS		$ 363,586.00

RECAP

Cash Reserves for New Bank:

Total Funds Available	$1,050,000.00	
Less Capital Assets	363,586.00	
** Less Organization Costs	50,000.00	
TOTAL CASH RESERVE FOR BANK		$ 686,414.00
TOTAL APPLICATION		$1,050,000.00

** The pre-organization expenses are estimates. If chartered or not any balance remaining from $50,000.00 will be refunded to the stockholders on a pro-rata basis.

STATEMENT OF CONDITION OF THE WESTERN BANK OF BOZEMAN

BOZEMAN, MONTANA

As of Close of Business, December 31, 1980

RESOURCES		LIABILITIES	
Loans	$12,080,614.36	Capital Stock	$ 550,000.00
U.S. Gov't & Other Bonds	4,288,209.49	Surplus	550,000.00
Premises, Bldg. & Land	545,881.46	Other Capital Accts.	416,711.23
Cash & Due from Banks	1,547,412.19	Total Capital	$ 1,516,711.23
Other Resources	328,331.89	Other Liabilities	$ 134,819.66
		Deposits	17,138,918.50
	$18,790,449.39		$18,790,449.39

OFFICERS

Don W. Liebsch, President
Daniel K. Edwards, Executive Vice President
Donna Brewer, A V P
Karen Wheat, Cashier
Gregory A. Liebsch, A V P
Paul V. Brodt, A V P
Bonny Hanke, Assistant Cashier
Andrea Di Marco, Executive Secretary
Mark A. Menke, I L O

DIRECTORS

Don W. Liebsch, Chairman
Daniel K. Edwards
Don Nell
Alan Iddles, M.D.
Jack Hume

An Independent Full Service Bank

1632 West Main Street
Bozeman, Montana

24-Hour Auto-Teller
Main Mall, Bozeman, Montana

Member F.D.I.C.

Opened April, 1971

Montana

F.I.
Montana
Independent
Bankers
Assoc.

Out-of-Staters Have Big Stake in Montana Finance

By SHAUN HIGGINS
Missoulian State Bureau

HELENA — The three out-of-state bank corporations that dominate Montana's money market have major financial investments in one another's stock, according to a recently released congressional study on voting rights in major business-es.

Bankers say, however, that the situation is not so damning as it appears. They emphasize that competition is strong among their subsidiaries, which hold about 40 percent of all Montana bank deposits.

The study, released to the Missoulian State Bureau by the late Sen. Lee Metcalf's subcommittee on reports, accounts and management, shows an interlocking pattern of voting rights among the "big three" Montana bank holding companies and their largest shareholders. The holding companies are: First Bank System Inc., Minneapolis; Northwest Bancorporation (whose banks bear the name Banco) Minneapolis; and Western Bancorporation, Los Angeles.

Among the subcommittee's findings:

• Northwest Bancorporation is the No. 4 stock-voter in First Bank System Inc. which is its major competitor in the northwestern United States. Banco Northwest controls voting rights to 2.04 percent of First Bank's stock — enough, the report indicates, to influence major policy decisions. Northwest is also the No. 13 stock-voter in Western Bancorporation.

• The First National Bank of Chicago (FNBC) is the No. 3 stock-voter in Northwest Bancorporation, holding over 300,000 shares, or three percent of Northwest's voting stock. FNBC is also the No. 5 stock-voter in the rival First Bank System, controlling 2 percent of the voting stock. The Chicago bank is also listed as the No. 20 stock-voter in Western Bancorporation, controlling about one-half percent of Western's voting stock.

• The National Bank of Detroit is the No. 2 stock-voter in Northwest Bancorporation and the No. 3 stock-voter in First System. In addition it manages a small number of shares in Western.

ages about 100,000 non-voting shares in Northwest.

• Bankamerica Corp., San Francisco, is the No. 1 stock-voter in Western Bancorporation and No. 10 stock-voter in Northwest Bancorporation.

• First National Bank of Minneapolis, No. 2 stock-voter ~~in the~~ First Bank System, is No. 13 stock-voter in Northwest.

The 799-page report, drawn up for use by the subcommittee, indicates that stock-voting links such as those among the Montana bank groups can impede competition and be detrimental to trust beneficiaries whose stock is voted by bank trust officers.

The document discusses interlocking voting rights among 122 major corporations, including all major banking corporations.

The report shows there is less cross-ownership among holding companies in the Montana market than exists in other markets. For example, the study shows that Morgan Guaranty Trust of New York is the No. 1 stock-voter in four of its sister New York City banks: Citicorp, Manufacturers Hanover, Chemical New York Corp., and Bankers Trust New York Corp. In turn, the report cites Citicorp as the No. 1 stock-voter in Morgan Guaranty's parent firm, J. P. Morgan & Co.

Banking industry officials, responding to state bureau queries, called the report "alarmist" and "misleading" and said it contains "ridiculous implications."

Robert Waller, president of Midland National Bank in Billings, the largest First Bank subsidiary in Montana, said "no credence can be placed in any approach indicating there's a conspiracy among the banks."

"Anyone familiar with banking in Billings knows that when a new business comes here the banks really scramble to get the account," Waller said. "And one of our toughest competitors is Northwestern (National Bank of Billings)."

A First Banks vice president in Minneapolis criticized the study for failing to indicate why the stocks were held.

"I want to make it clear," he said, "that the First Bank system does not invest its c[...] cash in stock. We hold stock

partments have sole voting rights to some of the stock, but have no voting right at all in other shares in their keeping.

The First Bank's official said Metcalf's group had "failed to point out that most of the stock is held for clients — regular bank customers."

Richard Vaughan, president of Northwest Bancorp, said the report exemplifies studies that "start with a conclusion and then slant the report to prove it."

"If there's much cross-ownership of Banco and First Bank stock, it's because both companies are damn good investments and because there's a prohibition against investing in your own company," Vaughan said.

Vaughan and the First Bank's official both said that trust stock is not centrally voted by the holding companies. Each trust department in the subsidiary banks votes its stock separately, they said.

Vic Reinemer, staff director for the subcommittee, has long voiced concern over signs of concentration of wealth and power among the nation's large corporations.

Concentration, Reinemer claims, can be achieved through interlocking voting rights in stock, through interlocking boards of directors and through chains of indebtedness among companies.

In the particular case of banks, Reinemer said, voting rights sometimes conflict with the wishes of trust beneficiaries. He cited an example in which a union's pension funds and investments had been controlled by a New York bank with strong ties to J.P. Stevens Co., a textile firm that has been branded the number one enemy of organized labor.

Northwest's subsidiaries in Montana are: First National Bank, Butte-Anaconda; First Northwestern Bank, Billings; First Northwestern Bank, Dillon; First Northwestern Bank, Kalispell; Northwestern Bank of Helena; Northwestern Bank of Livingston and Northwestern Bank, Great Falls.

Montana deposits in the system totalled $433,312,000 on June 30, 1977, according to the American Bank Directory, an industry guide.

First Bank System's Montana subsidiar[ies are]: First Met-

First National Bank, Great Falls; First National Bank, Ha[...] First National Bank, Lewistown; First National Bank, [...] City; First National Bank and Trust Co. of Helena, First [Na]tional Park Bank of Livingston; First State Bank of Fort B[...]ton; First State Bank of Forsyth; First Westside Nat[ional] Bank, Great Falls; Midland National Bank, Billings, South[...] National Bank, Missoula; Valley State Bank, Billings, a[nd] Western Montana National Bank of Missoula.

Montana's First Banks held $851,360,000 of deposits [on] June 30, about 14 percent of the holding company's total [de]posits, according to bank industry source books.

Western Bancorporation has the smallest stake in M[on]tana. It owns slightly less than 90 percent in each of the [fol]lowing: Bank of Glacier County in Cut Bank, Conrad Nat[ional] Bank Kalispell; and Montana Bank, Great Falls. The [...] banks had deposits of about $11 million on June 30, accor[ding] to industry reports.

The First Bank and Northwest banks in Montana are [for] the most part, wholly-owned subsidiaries of their parent [cor]porations, according to the latest edition of Moody's Ban[k] and Finance Manual, a primary source of information [...] banking industry.

VALLEY BANK
OF KALISPELL
Box 48
KALISPELL, MONTANA 59901

January 12, 1981

Didn't know California's Superintendent of Banks was on our side at one time.

AJK.

Survival of the Fattest: The Decline of Competition and People Interface in California's Banking Market

California's superintendent of banks makes some surprising disclosures about the direction of the state's banking system

There is a point at which bank size begins to work against people and communities, recently revealed California's Superintendent of Banks Carl J. Schmitt before the Senate Subcommittee on Financial Institutions. Marketplace domination by the state's branching giants, he suggested, has resulted in disadvantaged consumers and communities, an unhealthy competitive climate, and erosion of state control over banking.

Branching Pattern in California

Statewide branching in California is almost as old as the state, having been adopted in 1909. In 1910 California's 491 state banks had a combined total of 36 branches. By February 25, 1927, there were 313 state banks with 707 branches.

In 1950 there was only one bank with statewide facilities—Bank of America, formerly Bank of Italy, which had early adopted the goal of a branch in each of the state's population centers. The second statewide bank, the old First Western Bank and Trust, was formed through a series of mergers in 1954. That bank's holding company acquired California Bank in 1959, and out of that merger was created in 1961, at U.S. Justice Department insistence, two statewide banks—First Western Bank and Trust Company and United California Bank.

Crocker-Anglo National of San Francisco and Citizens National of Los Angeles merged in 1963 to become the statewide Crocker-Citizens National Bank. That same year Bank of California emerged as a statewide system.

Wells Fargo Bank moved into southern California to become a statewide bank in 1967. The following year the statewide Security Pacific National Bank resulted from the merger of Security First National, California's second largest bank, with Pacific National of San Francisco. Union Bank, the state's sixth largest, went statewide in 1969 by acquiring Oakland Bank of Commerce. On September 30, 1975, Bank of Tokyo of California purchased all the banking business of Southern California First National to form the statewide California First Bank.

California's nine largest banks are statewide systems. With combined deposits of $72 billion, or 86.6% of the state's total, they operate 2,836 (79.4%) of California's 3,574 branch offices. Of the remaining 195 banks in the state, 131 have branches.

Unhealthy Competitive Climate

"With nine statewide banks accounting for 87% of the banking in California, even with the reasonably aggressive new bank licensing, the state's banking is dominated by the larger banks," acknowledged Mr. Schmitt to the Senate Subcommittee. "Business in a free-enterprise economy not only has a capability to allow the best pand and grow and the wors away;" he continued, " checked, it also gives ban capacity to attempt to devel fair advantage, especially basis of size domination. . . .

As a classic example of dominance and less- competitive market advanta bank superintendent named of America. "Eighteen yea when Bank of America intro BankAmericard, it was th bank with the statewide domi and influence to be able to s with a one-bank-controlled card and still get a dominan tion in the credit-card field. years later, after some attem other individual banks, the s statewide banks such as Fargo banded together to Master Charge in Californi one bank was in a position to pete with Bank of America.

"For the last ten years, un month, Bank of America has monopoly on BankAmeri Every business in Californi needed to carry BankAmer needed to deal with one bank, of America. Every custome wanted to have this card had it through one bank, Ba America. This obviously help sure a substantial market pe tion by Bank of America.

"This is not a healthy compet climate and, in our minds, ha provided California with the banking climate. In the face of

A recent study provides evidence that the larger statewide banks almost without exception charge significantly higher rates than smaller banks. A study two years ago showed that the state's five largest banks consistently charged at least 2% more on comparable consumer loans than the seven smallest northern California banks surveyed.

dominance by one bank, the state has no direct control, and the federal authorities have seen fit to provide Bank of America with additional new bank locations almost as fast as the bank could apply for them. Bank of America now has 1,071 branches in California."

Consumer Disadvantage

The evidence suggests, pointed out Mr. Schmitt, that statewide branch banking has not been to the consumer's advantage. "A recently much publicized study by San Francisco Consumer Action has provided evidence that the larger statewide banks, almost without exception, charged significantly higher rates than smaller banks.

"Consumer Action has challenged an advertisement by Bank of America which offered 'low-bank-rate' car loans when Consumer Action surveys showed Bank of America to be charging the highest bank rate in the Bay area for car loans. A similar survey two years ago by Consumer Action showed the five largest banks in California to consistently charge two percent or more more on comparable consumer loans than the rates charged by the seven smallest northern California banks which were included in the survey."

The results of other surveys are consistent with Mr. Schmitt's findings. A recent study by Edward A. Trautz, for example ("Branching—the More Extensive, the More Expensive," in the December 1976 *Independent Banker*, pp. 8-13), based on newly available data from FDIC's universal-call-report and income-statement tapes, compared the 17 most critical bank-performance indices for prototype statewide-branching, limited-branching, and unit-banking states. The results strongly suggested that branch banks charge more interest on loans and are less efficient than unit banks.

Credit Redlining and Siphoned Community Capital

Communities, too, have been disadvantaged by unrestricted branching, Mr. Schmitt disclosed. "While large branch banks allow for the flow of funds from one area to another with more ease than independent banks, there are some disadvantages to this flow as well. Our surveys of low-income and depressed communities show them to be substantial exporters of capital through the branch-banking process.

"For example, the Mission area of San Francisco is one of low- and moderate-income families and is an older community. The loan-to-deposit ratio of all banks in the area is about .23 to 1, or 23%, which compares to a statewide average of 64% (total loans registered by that branch, regardless of where loans are made).

"There are no independent or locally owned banks in the Mission district, and we have found it difficult to establish such banks, given the saturation of the market by branch banks. What evidence we have, although it needs further research, suggests that a local bank would return a greater portion of its deposits to the Mission community.

"Whether or not the banks consciously attempt to move funds from inner-city areas to growing suburbs, it is clear that the most aggressive loan officers end up in the suburban branches, and the inner-city branches are often managed by operations-type people rather than loan officers. All of this at least raises questions concerning the potential negative, as well as the positive, impact of the easy intra-community flow of funds provided by branch banking."

Poor Efficiency Showing

Evidence gathered by Mr. Schmitt's office suggests, like the Trautz study, that branching giants are less efficient, as well as less responsive to communities, than independent banks. While in the late 1950s and early 1960s the advent of

Our surveys of low-income and depressed communities show them to be substantial exporters of capital through the branch-banking process. For example, the loan-to-deposit ratio of all banks in the San Francisco Mission area, an older community of low- and moderate-income families, is about .23 to 1, or 23%, which compares with a statewide average of 64%. What evidence we have suggests that a local bank would return a greater portion of its deposits to the Mission community.

Market dominance in itself seems to be a substantial competitive advantage which seems to equalize the inefficiency of larger institutions. The evidence suggests that the general laws on monopoly are not sufficient to provide the type of competition in banking, and especially in EFTS, that will ensure the consumer gets the best balance between low rates and good service.

computer technology seemed to suggest larger banks would enjoy significant economies of scale, he testified, increasing sophistication of the computer and more specifically of communication equipment has largely dispelled that potential advantage.

"The same types of computer and communication equipment that are bringing on EFTS also allow virtually every financial institution access to equally sophisticated computer services at comparable costs. Our preliminary evidence suggests, in fact, that the larger institutions may have more overhead and bureaucracy and be less efficient."

Market Dominance

In the face of their higher service charges to customers, poorer efficiency, and less community responsiveness, why are California's branching giants flourishing? Why do they not, in Mr. Schmitt's words, fall away, enabling the independents to expand and grow? The answer, according to the bank superintendent, appears to be market dominance.

"Market dominance in itself seems to be a substantial competitive advantage which seems to equalize the inefficiency of larger institutions. While the large banks charge considerably more for consumer loans, their return on investment is not significantly higher than the smaller banks [see also the Trautz study]. Yet they still seem to be able to hold on to their market share.

"One reason may be the present branching policies of both federal and state authorities. Both of us must admit to using much lower criteria for the approval of a branch than for the approval of a new bank. Effectively, this means that branch applications into a new or growing area would be able to be acted upon before the site would justify an independent bank. Large banks are then in a position to hold onto potentially profitable locations for a longer period of time than smaller institutions in order to develop the market."

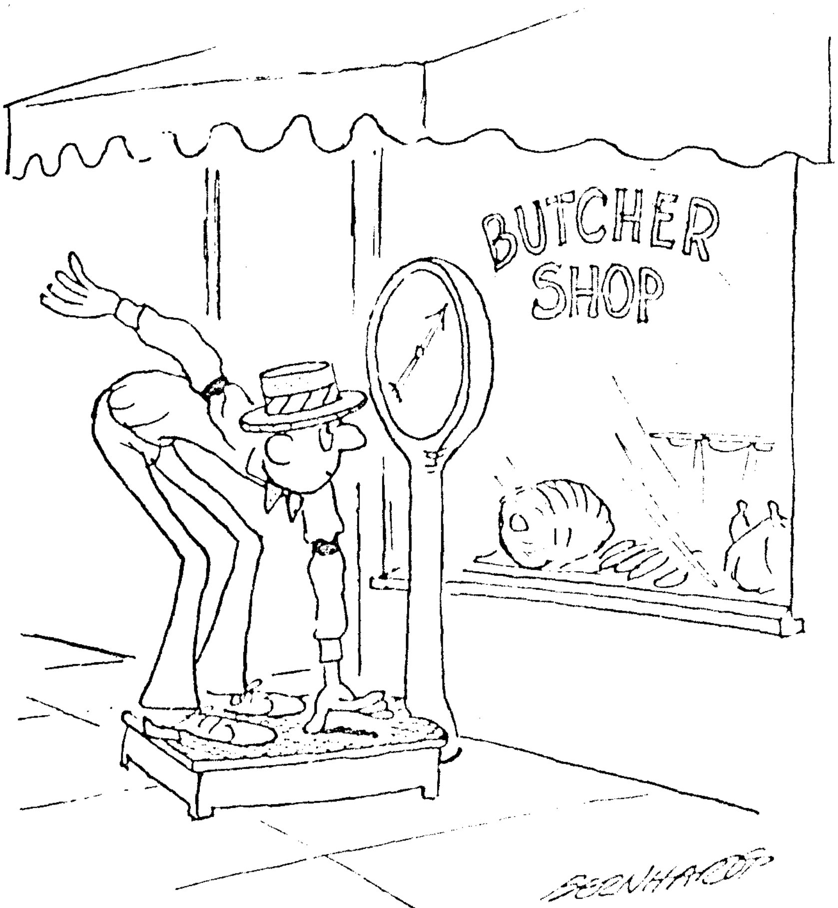
"Initially," said Mr. Schmitt, "a business grows because it provides better services at a better price, but eventually, as a business becomes dominant, the factors that control growth become more and more oriented toward factors of market dominance and certain uncompetitive advantages."

EFT—Compounding the Dominance Problem

How can the state insure that the consumer will get the best balance between low rates and good service with electronic funds transfer systems, then? "The evidence suggests," testified Mr. Schmitt, "that the general laws concerning monopoly by any corporation are not sufficient to provide the type of competition in banking, and especially in EFTS, that will insure the consumer will get the best balance between low rates and good service."

He further noted, "One issue of particular interest to the banking department is the effect EFTS will have on the already lopsided competitive structure of California banking. In this regard, the state should be free to adopt policies,

"I know it's not the 18th. That's today's interest rate."



applicable to national and state banks alike, that will assure EFT systems are deployed in a manner which enhances competition rather than in one which inhibits it."

With the unhealthy dominance of the market by one bank, California could easily see the introduction of EFTS strengthen that dominance even further, he maintained. "What if, for example, as happened in the case of Bank Americard and Master Charge, Bank of America is able to develop one system and all of the other banks in California must combine to compete with our banking giant? Wouldn't this even further concentrate the power and competitive advantage into one financial institution?"

Mr. Schmitt can hardly be labeled an enemy of branch banking. "Beyond doubt," he told the Subcommittee, "branch banking has allowed individual banks to grow and become far larger than would otherwise have been possible. These banks have larger lending capacities enabling both business and government to arrange their financial affairs more expeditiously. This appears to be of particular importance to our large corporate businesses and in areas of foreign trade. . . ."

To California's people and communities, however, statewide branching has apparently proved to be less than an undiluted blessing. Indeed, its giant offspring clearly present an accelerating problem for California in terms of economic as well as social value. ❑

Registration Opens for IBAA's Third Junior Seminar South

A tentative program for IBAA's third Junior Seminar South, to be held June 5-9 on the campus of the University of Arkansas in Fayetteville, has been set up, reports Dr. John Dominick, seminar director. He holds the Arkansas BA chair of banking in the university's College of Business Administration.

The program includes two panels—one on the four principal areas of bank lending and one on the principal areas of bank operations. Addresses and discussion groups will cover the secondary marketing of SBA and FmHA guaranteed loans; IRA-Keogh plans; the investment portfolio of a country bank; a trust department for small- and medium-size banks; EFT systems; banking ethics; bank public relations and marketing; auditing, internal controls, and security; current economic conditions; the Washington scene; and the philosophy of independent banking.

Co-coordinators of the seminar are Joe Siebenmorgen, board chairman at Bank of Quitman, and Means Wilkinson, board chairman/CEO of Farmers Bank in Greenwood. The seminar is a project of IBAA's Bank Study Committee, whose chairman and vice chairman are, respectively, Rod L. Parsch, president of Lapeer County Bank & Trust Company in Lapeer, Michigan, and William P. Givens, president of Merchants National Bank in Muncie, Indiana.

Registration forms have been mailed to all IBAA member banks. The $190 fee includes registration, materials, and all meals except breakfast. Room reservations will be made for all registrants at the Holiday Inn on a double occupancy basis. Completed application forms should be returned to IBAA, P.O. Box 267, Sauk Centre, Minnesota 56378.

Branching—the More Extensive, the More Expensive: Results of a Bank-Structure Study Drawing on Data from FDIC's Universal-Call-Report and Income-Statement Tapes

by Edward A. Tra

For the first time there is statistical evidence strongly suggesting that branch banks charge more interest on loans and are less efficient than unit banks. Evidently as branching becomes more extensive, it becomes more expensive.

Until very recently, economists were obliged to extrapolate bank performance from limited-sampling techniques. Last year, Bank Administration Institute purchased FDIC's universal-call-report and income-statement tapes, thus for the first time expanding the data base for BAI bank-performance indices to the more than 14,000 insured banks in the U.S. Using the indices of the *1975 BAI Index of Bank Performance*, published 1976, it is now possible to compare performance of similar-size banks state by state as well as within a state.

Darnell and Mote Studies

The conventional wisdom has it that branching makes for a more competitive banking environment, which leads to lower bank-service prices and higher time-deposit yields. Branching, it is maintained, results in more banking facilities for small towns especially, in greater operating efficiency, and in a higher percentage of deposits lent. Some have even argued that branching will stimulate a lagging economy in a given market area, usually a state.

The contention that branching will enable a state with a lagging economy to make a great leap forward was pretty well shot down by Fed economist Jerome C. Darnell ("Does Banking Structure Spur Economic Growth?" in *Business Review*, Federal Reserve Bank of Philadelphia, November 1972). Mr. Darnell's study concluded, "... the kinship of structure and growth is too weak to support change in banking law in the belief that higher levels of economic growth can be reached. ... Each state is unique, and banks, regardless of organizational form, cannot offset shortcomings in those elements vital for capital formation."

As to the argument that branching results in more facilities and a more competitive environment, Fed economist Larry R. Mote recently concluded from six studies ("The Perennial Issue: Branch Banking," *Business Conditions*, Federal Reserve Bank of Chicago, February 1976), "In smaller towns and villages, those usually expected to benefit the most from expanded branching, the average number of banking offices differs little between branch and unit states." He stated further, "... there are grounds for concluding that branching is conducive to anticompetitive changes in bank market structure."

Applying 17 Critical Performance Indices

Serious reservations about other long held beliefs on the effects of branching are also raised by careful examination and analysis of the information in BAI's new *Index*. Let us consider three states with contrasting banking styles: Calif the archetype of free entry wide branching adopted Michigan a limited-bran state with a home-rule pro feature; and Illinois, which recently allowed no branchi of October 1, a limited facilit be established within two mil bank's main office). It is imp to keep in mind that while California and Michigan multibank holding compani nois does not.

In each of these states, examine the median bank as lated by BAI. Then, using t key indices most critical in mining bank performance, compare the median Calif Michigan, and Illinois banks ious size categories (Tables and in aggregate (Table G tinent demographic and ba data is listed in Table A.

Unit Banks Most Efficient

If we rank the aggregate n banks in each of the 17 critica ces (Table H), we find that very few exceptions, the ra correlate to those in vario categories. The most prono exceptions are for banks $500 million in Illinois, where sonnel and occupancy ex rank highest rather than lo

What conclusions can be d from this newly available data one thing, measuring bank ef ciency by return on assets equity, banks in Illinois gene

(continued on pages 9 13

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Table A: Selected Demographic and General Banking Data

Category	California	Illinois	Michigan
Estimated 1974 Population	20,907,000	11,131,000	9,098,000
Rank in U.S. by Population	1	5	7
Number of SMSAs	17	10	13
Percentage Urban Population	90.9	83.0	73.8
Percentage Rural Population	9.1	17.0	26.2
Number of Banks (1974)	186	1,183	346
Number of Banks (1975)	187	1,187	343
Number of Branches or Facilities (1974) *	3,484	194	1,478
Total Banks and Branches (1974)	3,670	1,377	1,824
Number of People per Banking Office (1974)	5,697	8,083	4,938
Number of Banks among 20 Largest U.S. Banks	5	2	1
Concentration of Deposits in 5 Largest Banks (12/31/40)	66.4%	66.5%	57.7%
Concentration of Deposits in 5 Largest Banks (12/31/70)	77.0%	39.4%	45.8%
Concentration of Deposits in 5 Largest Banks (12/31/74)	78.7%	45.9%	66.0%*

Table B: Performance of Median Banks with Assets under $10 Million**

Index	California 25 Banks	Illinois 362 Banks	Michigan 49 Banks
Return on Assets	-1.76	.98	.97
Return on Equity	-10.93	12.09	11.03
Equity to Assets	15.84	8.30	8.66
Yield on Loans	9.35	7.92	8.87
Rate on Savings and Time Deposits	5.02	5.32	5.30
Breakeven Yields	10.19	5.91	6.65
Trust Income % Total Operating Income	1.97	.56	.60
Other Income % Total Operating Income	10.81	2.70	4.89
Personnel Expense % Total Operating Income	38.37	20.31	19.62
Interest Expense % Total Operating Income	26.43	44.15	44.97
Occupancy Expense % Total Operating Income	9.40	2.24	2.41
Loan Loss Provision % Total Operating Income	4.74	1.67	1.68
Total Operating Expense % Total Operating Income	120.07	82.78	84.27
Net Interest Margin—Tax Equivalent	70.37	56.74	54.32
Cash Dividend % Income Before Security Transactions	.00	22.22	26.60
Loans as % of Total Assets	53.65	40.49	54.96
Total Time Deposits % Total Deposits	51.32	62.64	74.53

Table C: Performance of Median Banks with $10-$24 Million in Assets**

Index	California 51 Banks	Illinois 391 Banks	Michigan 122 Banks
Return on Assets	.61	.92	.80
Return on Equity	6.60	13.38	11.20
Equity to Assets	8.27	6.97	7.61
Yield on Loans	9.65	8.19	8.76
Rate on Savings and Time Deposits	5.39	5.47	5.41
Breakeven Yields	7.59	6.04	6.57
Trust Income % Total Operating Income	1.11	.56	.28
Other Income % Total Operating Income	10.66	3.99	4.88
Personnel Expense % Total Operating Income	28.86	17.75	18.01
Interest Expense % Total Operating Income	31.61	48.90	49.45
Occupancy Expense % Total Operating Income	5.27	2.30	2.88
Loan Loss Provision % Total Operating Income	3.65	1.25	1.61
Total Operating Expense % Total Operating Income	90.84	84.41	86.27
Net Interest Margin—Tax Equivalent	65.84	52.74	51.67
Cash Dividend % Income Before Security Transactions	29.05	19.87	27.44
Loans as % of Total Assets	56.65	45.95	56.61
Total Time Deposits % Total Deposits	53.23	67.37	74.78

*Abnormal increase in Michigan's deposit concentration between 1970 and 1974 is due in large measure to a 1970 revision in Michigan law to permit multibank holding companies. Between 1970 and 1974, 44 bank holding companies were formed.

**Data from 1975 BAI Index of Bank Performance, published by Bank Administration Institute, Park Ridge, Illinois, 1976. Reprinted by permission.

Table D: Performance of Median Banks with $25-$99 Million in Assets**

Index	California 68 Banks	Illinois 353 Banks	Michigan 121 Banks
Return on Assets	.57	.87	.84
Return on Equity	9.42	13.62	11.72
Equity to Assets	6.66	6.47	6.83
Yield on Loans	9.80	8.44	8.78
Rate on Savings and Time Deposits	5.54	5.53	5.47
Breakeven Yields	7.52	6.24	6.67
Trust Income % Total Operating Income	1.72	.95	.64
Other Income % Total Operating Income	12.87	4.88	4.88
Personnel Expense % Total Operating Income	27.30	17.93	18.19
Interest Expense % Total Operating Income	35.43	48.94	50.53
Occupancy Expense % Total Operating Income	4.89	2.80	2.87
Loan Loss Provision % Total Operating Income	3.62	1.45	1.85
Total Operating Expense % Total Operating Income	90.83	86.11	86.74
Net Interest Margin—Tax Equivalent	62.20	52.13	50.78
Cash Dividend % Income Before Security Transactions	25.09	24.62	27.62
Loans as % of Total Assets	53.62	48.85	57.28
Total Time Deposits % Total Deposits	54.68	68.19	75.10

Table E: Performance of Median Banks with $100-$499 Million in Assets**

Index	California 32 Banks	Illinois 74 Banks	Michig 41 Ba
Return on Assets	.60	.89	8
Return on Equity	11.19	12.74	13.
Equity to Assets	5.85	6.78	6.2
Yield on Loans	9.48	8.42	8.69
Rate on Savings and Time Deposits	5.59	5.64	5.48
Breakeven Yields	7.30	6.13	6.53
Trust Income % Total Operating Income	1.56	2.04	1.81
Other Income % Total Operating Income	10.05	5.30	5.72
Personnel Expense % Total Operating Income	25.75	16.69	19.15
Interest Expense % Total Operating Income	36.66	51.82	49.69
Occupancy Expense % Total Operating Income	5.15	2.60	3.54
Loan Loss Provision % Total Operating Income	2.89	2.13	1.63
Total Operating Expense % Total Operating Income	90.61	85.59	87.23
Net Interest Margin—Tax Equivalent	57.07	48.72	51.02
Cash Dividend % Income Before Security Transactions	27.01	33.61	38.45
Loans as % of Total Assets	57.08	49.29	57.10
Total Time Deposits % Total Deposits	57.94	68.49	73.08

Table F: Performance of Median Banks with Assets above $500 Million**

Index	California 11 Banks	Illinois 7 Banks	Michig 10 Ba
*Return on Assets	.49	.87	.8
*Return on Equity	10.09	13.94	12.4
Equity to Assets	4.94	6.06	6.2
*Yield on Loans	9.03	8.49	8.4
*Rate on Savings and Time Deposits	6.25	6.26	5.5
*Breakeven Yields	7.34	6.28	6.7
Trust Income % Total Operating Income	2.06	6.69	1.9
Other Income % Total Operating Income	12.60	11.66	7.3
Personnel Expense % Total Operating Income	18.90	20.03	18.8
Interest Expense % Total Operating Income	48.55	50.08	50.1
Occupancy Expense % Total Operating Income	4.38	4.05	3.1
Loan Loss Provision % Total Operating Income	5.70	6.27	3.0
Total Operating Expense % Total Operating Income	91.29	84.23	87.4
Net Interest Margin—Tax Equivalent	44.27	41.02	47.9
Cash Dividend % Income Before Security Transactions	56.83	31.47	53.5
Loans as % of Total Assets	59.01	53.94	58.5
Total Time Deposits % Total Deposits	61.70	56.73	71.

*Indices that compare income and expense to balance-sheet figures for banks in this asset range with substantial foreign operations are [illegible] because domestic balance sheet figures along with foreign and domestic income and expense figures were used

** *Data from* **1975 BAI Index of Bank Performance,** *published by Bank Administration Institute, Park Ridge, Illinois, 1976. Reprinted by permission.*

Table G: Performance of Aggregate Median Banks**

Index	California 187 Banks	Illinois 1187 Banks	Michigan 343 Banks
Return on Assets	.51	.92	.84
Return on Equity	7.20	12.96	11.72
Equity to Assets	7.35	7.18	7.22
Yield on Loans	9.52	8.27	8.78
Rate on Savings and Time Deposits	5.51	5.47	5.44
Breakeven Yields	7.63	6.08	6.63
Trust Income % Total Operating Income	1.97	.95	.90
Other Income % Total Operating Income	11.57	4.10	5.06
Personnel Expense % Total Operating Income	27.62	18.41	18.43
Interest Expense % Total Operating Income	35.21	47.89	49.59
Occupancy Expense % Total Operating Income	5.27	2.49	2.98
Loan Loss Provision % Total Operating Income	3.88	1.50	1.85
Total Operating Expense % Total Operating Income	91.90	84.70	86.38
Net Interest Margin—Tax Equivalent	62.18	53.16	51.24
Cash Dividend % Income Before Security Transactions	28.33	23.08	28.74
Loans as % of Total Assets	55.18	46.33	56.84
Total Time Deposits % Total Deposits	56.12	66.41	74.68

Table H: Ranking of Aggregate Median Banks

Index	California	Illinois	Michigan
Return on Assets	3	1	2
Return on Equity	3	1	2
Equity to Assets	1	3	2
Yield on Loans	1	3	2
Rate on Savings and Time Deposits	1	2	3
Breakeven Yields	1	3	2
Trust Income % Total Operating Income	1	2	3
Other Income % Total Operating Income	1	3	2
Personnel Expense % Total Operating Income	1	3	2
Interest Expense % Total Operating Income	3	2	1
Occupancy Expense % Total Operating Income	1	3	2
Loan Loss Provision % Total Operating Income	1	3	2
Total Operating Expense % Total Operating Income	1	2	3
Net Interest Margin—Tax Equivalent	1	2	3
Cash Dividend % Income Before Security Transactions	2	3	1
Loans as % of Total Assets	2	3	1
Total Time Deposits % Total Deposits	3	2	1

1 = highest; 2 = next highest; 3 = lowest

Table I: Performance of BankAmerica Corporation*

Return on Assets, Total Corporation	0.61%
Return on Assets, Retail Banking	1.23%
Return on Equity	16.70%
Equity to Assets	3.02%
Yield on Loans	9.49%***
Rate on Savings and Time Deposits	6.44%
Trust Income %Total Operating Income	.76%
Other Income % Total Operating Income	4.15%
Personnel Expense % Total Operating Income	13.76%
Interest Expense % Total Operating Income	56.76%
Total Operating Expense % Total Operating Income	89.15%
Net Loans % Total Assets	47.26%
Domestic Time Deposits % Total Domestic Deposits	68.42%
Foreign Time Deposits % Total Foreign Deposits	81.72%

*Indices based on data from consolidated statements in BankAmerica Corporation Annual Report, 1975. BankAmerica has 7 million deposit accounts, including 3 million checking and 4 million savings accounts, in the California market. The corporation employs 65,105 people and has assets of $66,763,054,000 as of 12/31/75. Retail banking includes California division community offices and BankAmericard credit. Rate on savings deposits cannot be broken down into domestic and foreign categories because the interest on deposits figure does not indicate what percentages were paid domestically and abroad.

** *Data from* **1975 BAI Index of Bank Performance,** *published by Bank Administration Institute, Park Ridge, Illinois, 1976. Reprinted by permission.*

***The author has estimated average net loans outstanding for year 1975 at $31,555,152,000.

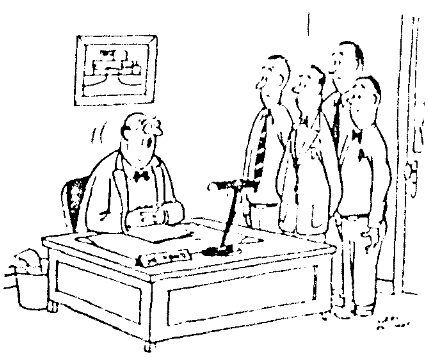
seem to be the most efficient, those in Michigan next most efficient, and those in California least efficient.

Another measure of efficiency is the relationship of net interest margin—tax equivalent to return on assets. If the net interest margin—tax equivalent is high but the return on assets low, the bank's performance is poor. Conversely, if the net interest margin—tax equivalent is low but return on assets high, the bank's performance is good. Using this measure of performance, all size category banks in California rank lowest, those in Michigan next lowest, and those in Illinois highest.

Bank Costs Lowest at Unit Banks, Savings Rates Highest

Nor does free bank entry appear to guarantee lower bank prices or higher yields on savings and time deposits. In every size category except banks above $500 million, bank yield on loans is highest in California, next highest in Michigan, and lowest in Illinois. It should be pointed out that the yield-on-loans index for over-$500-million banks with substantial foreign operations is distorted because it is based on domestic balance-sheet figures and foreign/domestic income and expense figures.

While banks in Illinois generally charge least for loans, it appears that, with the exception of $25-99 million banks, they pay the highest rate on savings. Michigan and California rank second and third, respectively, for banks under $25 million; third and second for banks of $25 million or more—this despite the fact California banks in all size categories have consistently



"Under this new incentive plan, every salesman who meets his quota will get to keep his job."

lower time deposits as a percentage of total deposits.

It is interesting to note that percentage of time deposits to total deposits is much higher in Michigan than in either Illinois or California, which may account for the lower rate paid on time deposits in Michigan. The BAI *Index* reveals that the Michigan time-deposits-to-total-deposits ratio is higher than that of any other state or the District of Columbia.

Breakeven Yield and Other Operating Income

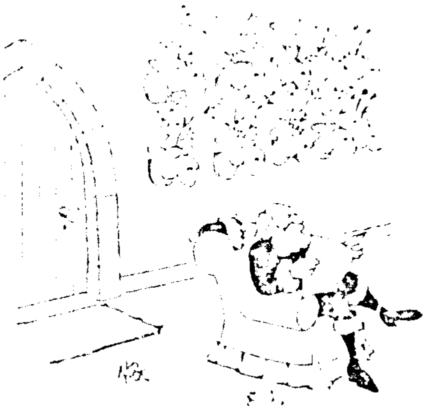
An index reflecting the cost of operating a bank is the breakeven yield. This figure is determined by a complicated formula, but its definition is simple. It is the yield required on earning assets to achieve zero profit. The higher the breakeven yield, the more costly the bank operation. According to the BAI *Index*, the breakeven yield is highest in California, next highest in Michigan, and lowest in Illinois.

Another index, other operating income as a percentage of total income, is highest in California, next highest in Michigan, and lowest in Illinois. Since other operating income includes service charges, it is possible that this reflects comparative bank-service costs in the three states.

Loans-to-Assets Ratio

According to the conventional wisdom, branching results in a greater percentage of loans to deposits. Of the three states studied, Michigan, the limited-branching state, shows the highest loans-to-assets ratio. Michigan also has the fewest number of people per banking office. If the conventional wisdom were valid, California would lead in both categories.

Domiciled in California is the nation's largest bank, BankAmerica Corporation, which has 1,057 domestic and 107 foreign branches. With total resources of nearly $67 billion, BankAmerica has a loans-to-assets ratio of 47.26% (see Table I), only slightly higher than the median Illinois bank ratio of 46.33%. Out of all the more than 11,000 insured banks in the U.S., the median bank has a loans-to-assets ratio of 51.24%, almost 5% greater than that of BankAmerica.



There are 4,665 banks in th U.S. with assets of $10 million o less. In this category, the media bank has a loans-to-assets ratio c 48.41%. Even if each of these 4,66 banks had $10 million, and many c them do not, their combined tot assets would be $46.65 billion 30% less than the total assets o BankAmerica with its loans-to assets ratio of 47.26%.

Conventional Theory Contravened

When I first glanced at the 197 BAI study, certain incongruitie prompted me to perform a rel tively simple exercise. I applied th yield-on-loans and rate-on-saving indices to all statewide-branching limited branching, and unit branching states. The averag median-bank loan yield in the 2 statewide-branching states (inclu ing D.C.) was 9.13%; 8.82% in th 16 limited-branching states; 8.80 in the 15 unit-banking states. Ave age rate on savings paid by the m dian banks in statewide-branchin states was 5.54%; in limited branching states, 5.54%; and i unit-banking states, 5.61%.

Because results did not conc with accepted theory that fr entry makes for lower banki prices and higher savings rat decided to study in greater de three states with predominan different banking structures. Th paper is the product of that stud

There are, of course, limitatio in dealing with aggregated stat wide figures. Nevertheless the d so far analyzed, plus the concl sions drawn by economists Da nell and Mote, raise serious ques tions about the validity of conven tional theories on branching ef fects. At the very least, the evidence strongly suggests that removing barriers to branching may not be in the public interest. □

Mr. Trantz is first vice president of IBAA and president of East Lansing State Bank in Michigan.

IBAA Directors Elected in 13 States

A tie vote in the IBAA New Hampshire director election was broken by Arthur F. Brown Jr., president/trust officer of Carroll County Trust Company in Conway, who withdrew in favor of William F. Kidder Jr. of New London. Representing IBAA banks as of January 1 in the 13 states where elections were held are:

GEORGIA—S. Ernest Vandiver, board chairman, Northeast Georgia Bank, Lavonia

INDIANA—Elton H. Geshwiler, vice president, First Bank and Trust Company, Indianapolis

MASSACHUSETTS—Edward J. Duffy Jr., board chairman, Suburban National Bank, Arlington

MICHIGAN—Rollin Dart, board chairman/president, Dart National Bank, Mason

MISSOURI—Harvey B. Young Jr., president, Bank of Kirksville

NEW HAMPSHIRE—William F. Kidder Jr., treasurer, New London Trust Company

NEW JERSEY—Jack E. Jensen, president, Liberty National Bank, Hillsdale

NEW MEXICO—Claude E. Levendecker, president, Mimbres Valley Bank, Deming

OKLAHOMA—Robert L. McCormick Jr., president/CEO, Stillwater National Bank & Trust Company

PENNSYLVANIA—Harold U. Crouse, president, Peoples National Bank, Shippensburg

SOUTH DAKOTA—Erling E. Hango, president, Valley National Bank of Sioux Falls

TENNESSEE—James R. Fitzhugh, president, Bank of Ripley

WEST VIRGINIA—W. Murray Smith, president, Clay County Bank, Clay

Because they were unopposed as nominees in their states, Mr. Duffy of Massachusetts and Mr. Levendecker of New Mexico are automatically reelected. All directors chosen, with the exception of the New Jersey director-elect, will serve 3-year terms ending December 31, 1979. The New Jersey director will complete the two years remaining in the term of Thomas H. Kingsland, who resigned.

Past presidents of the association are automatically members of the executive council. Also council members are those who belong to IBAA's administrative committee

Scully Exhibit F

REASONS TO VOTE NO

1 **IT COSTS MORE.**
A recent report by California's superintendent of banks makes surprising disclosures. Their study revealed that "the larger state-wide banks almost without exception charge significantly higher rates than smaller banks." A study showed that the state's five largest banks consistently charged at least 2% more on comparable consumer loans than the seven smallest northern California banks surveyed.

2 **MONOPOLY.**
Branch Banking leads to monopoly banking — it's happened in New York, California, and in other states that have permitted branching. For example, in Arizona, three giant banks now control 85% of the banking business in that state. And just six years after allowing branch banking in Ohio, Virginia, and Florida, there are 40% FEWER banks competing with the giants in those states. The fewer banks, the fewer sources of credit for you. Branch Banking reduces competition and reduces your options.

3 **MONTANA'S LEGISLATURE REJECTED BRANCH BANKING.**
Since 1927 Montana has flatly prohibited branch banking in this state. In 1968 Montana Legislature repealed a loophole being considered by branch bank monitors. Since then our elected representatives have turned down branching on each occasion.

4 **LOCAL CONTROL IS LOST.**
Your loans come from bank deposits. Don't you think your deposits should be kept at your home bank for use in your community? If branch banking passes, your deposits could leave your community and your loan will require the approval of an executive sitting in one of the monopoly banks.

5 **BUREAUCRACY REPLACES PERSONAL SERVICE.**
Branch banks are run by big central control banks that are simply not interested in your community. The branch bank manager just can't make decisions like your local bank president can. Montana's independent community banks give you access to your banker. Branch banking means the big banks get bigger and less efficient. You become just a number in their big bank computer instead of a real person.

Dr Andreason

BRANCHING RESOLUTION

HB 1??

Passed by MBA Board of Directors August 19, 1980

WHEREAS, the Board of Directors of the Montana Bankers Association recognizes the sensitivity of the issue of branch banking among the Montana banking community, and;

WHEREAS, the Board of Directors of the Montana Bankers Association has previously appointed a special task force to study the issue of branch banking in Montana, and;

WHEREAS, The Board of Directors of the Montana Bankers Association unanimously approved the report of the special task force on March 25, 1980 after this task force had spent many hours in studying the issue of branch banking in Montana, and;

WHEREAS, the report of the special task force incorporated a survey of Montana banks wherein the majority of banks indicated philosphical opposition to branch banking, and;

WHEREAS, the Board of Directors of the Montana Bankers Association through its duly elected representatives have previously presented in public testimony before the Interim Committee on Branching of Financial Institutions on April 14, 1980 a statement of position on branch banking.

NOW THEREFORE BE IT RESOLVED that the Board of Directors of the Montana Bankers Association at its August 18, 1980 meeting reiterate, affirm, and support the following position:

Philosophically, the majority are opposed to branch banking, however, if there shall be an extension of the bank facility law, some level of the following could be a basis for consideration in changing said law:

A. Extending bank customer facilities in Montana shall be accomplished by amending the present laws relating to detached facilities of banking institutions.

B. Home office protection will be granted so that no additional detached facility shall be closer than 1500 feet to an existing bank or existing detached facility.

C. The geographic limits of such extended bank facilities shall be limited to three miles from the corporate city limits.

D. For communities of over 50,000 people, delineated in Line C, there shall be two additional facilities.

E. One additional facility shall be granted banks in communities of under 50,000.

All financial institutions shall be subject to the same branching laws as banks.

BE IT FURTHER RESOLVED that the Board of Directors of the Montana Bankers Association suggest, encourage and implore that the Interim Committee on Branching of Financial Institutions research, study and analyze the branching of all financial institutions in Montana as directed by House Joint Resolution No. 49 with particular emphasis on need and effort, and;

BE IT FURTHER RESOLVED that the Board of Directors of the Montana Bankers Association oppose the "Draft Bill" as presently proposed to the Interim Committee on Branching of Financial Institutions for its consideration.

(This MBA position was originally approved by the MBA Taskforce and Board on March 25, and presented to the Interim Committee on June 17. After reviewing a "draft bill" written by the Interim Committee, this position was reaffirmed for presentation to the Interim Committee's meeting on August 26. MBA has not taken any formal action on the final bill approved by the Interim Committee for introduction in the 1981 Legislative Session.)

VISITORS' REGISTER

HOUSE B & I COMMITTEE

BILL HB 239 & 240 Date [illegible]

SPONSOR Fabrega

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
[illegible]	[illegible]	[illegible]		
Lavone H. Olson	Havre, Mont	Olson Ford	✓	
Tom A. Rolfe	Bozeman, Mont.	Rolfe and Wood Inc.	✓	
[illegible] Shoop	Kalispell, Mont.	Shoop Motor Sales [illegible]	✓	
[illegible] Torgerson	Sidney, MT.	Larson Motor Co.	✓	
Bob DeMarois	Missoula, Mt.	Tunnell DeMarois Co.	✓	
[illegible] Pierce	Kalispell Mt	[illegible] Motors	✓	
Jim Tannehill	Kalispell Mt	C & R Volkswagen	✓	
[illegible]	Missoula	[illegible]	✓	
Wes Spunk	Missoula	Wes Spunk Auto Mall	✓	
Bill [illegible]	Missoula	Missoula [illegible]	✓	
[illegible] H [illegible]	Great Falls	City Motor Co.	✓	
[illegible] Ryan	Great Falls	Ryan Olds	✓	
[illegible]	Miles City	Lohmann MTRS	✓	
[illegible]	Billings	Archie Cochrane [illegible]	✓	
R. H. Smith	Blgs MT	Bob Smith Lin Mer[illegible]	✓	
[illegible]	Fort Benton	Power Motors	✓	
Bud Grimes	Helena	Grimes Buick	✓	
[illegible]	Butte	High Country [illegible]	✓	
[illegible]	Butte	[illegible] Datsun	✓	
[illegible] Mitchell	Butte	Mitchell Pontiac GMC	✓	
[illegible]	Helena	Frontier Motors	✓	
Don Allen	Helena	Mt. Petroleum Assn.	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE ______________________ COMMITTEE

ILL 238 + 239 Date ______________

NSOR ______________________

NAME	RESIDENCE	REPRESENTING	SUPPORT	O
[illegible]	Bozeman	[illegible]	✓	
[illegible]	[illegible]	[illegible]		
Ralph Anderson	Helena			
[illegible]	"	" "	✓	
[illegible]	Bzn	" "	✓	
[illegible]	[illegible]	" "		
[illegible]	Billings	[illegible]	✓	
[illegible]	[illegible]	[illegible]	✓	
[illegible]	Great Falls	[illegible]	✓	
[illegible]	" "	" "	✓	
[illegible]	Helena	[illegible]	✓	
[illegible]	Belgrade, MT	Gallatin Homes	✓	
[illegible]	[illegible]	[illegible]		
Anderson	Fort Benton MT	MBA	✓	
[illegible]	Great Falls	[illegible]	✓	
Robert L. [illegible]	Ft Benton	[illegible]	✓	
[illegible]	[illegible]	[illegible]		
[illegible]	Bozeman	[illegible]	✓	
[illegible]	[illegible]	[illegible]		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

PROPOSED AMENDMENTS TO HOUSE BILL 239

1. Title, line 6
Following: "MCA"
Insert: "; PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 10
Following: ~~(1)~~
Insert: (1)

3. Page 4, line 3
Following: "buyer.""
Strike: " " "

4. Page 4, following line 3
Insert: (2) Notwithstanding the provisions of any other law, a retail charge account agreement may provide for and the seller or holder may charge, collect, and receive a finance charge as specified herein for the privilege of paying in installments thereunder. The finance charge may be computed from month to month (which need not be a calendar month) or other regular billing cycle period by applying a rate not to exceed 1 1/2% for each such monthly period to an amount (not including any unpaid finance charge) not in excess of the greatest of:

(a) the average daily balance in the account in the billing cycle period;

(b) the ending balance of the account as of the last day of the billing cycle less the amount of purchases charged to the account during that billing cycle; or

(c) the median amount within a $10 range within which such average daily balance or beginning balance falls, provided the seller applies the same rate of finance charge to all such balances within such range.

(3) If the finance charge so determined pursuant to (4) above for such monthly period is less than 50 cents, a maximum finance charge not in excess of 50 cents may be charged, received, and collected for such period."

5. Page 4, line 19
Following: "31-1-242"
Strike: ~~all language through "31-1-242" in line 20.~~

HOUSE BILL NO. 239

1. Title, line 6

FOLLOWING: "MCA"
STRIKE : "."
INSERT : "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

2. Page 5

FOLLOWING: line 10
INSERT : "Section 3. Effective date. This act is effective on passage and approval."

~~Dr Andreason~~
Exhibit A

STATEMENT FOR PUBLIC HEARING ON

HOUSE BILLS 239 and 240

My name is Jerry Raunig. I'm the Executive Vice-President of the Montana Automobile Dealers Association (MADA), which is the trade association for the franchised new car and truck dealers of this state.

The Problem

Many well-publicized factors have contributed to the ill-health of the automobile business in this state, but the biggest problem since the first of January, 1980, has been the shrinking availability of financing for the AVERAGE car buyer.

As the cost of money increased, following the rising prime rate, banks quickly found that Montana's rate ceilings were below their average cost of money, and car financing in this state became a losing proposition.

The disappearance of financing for the average car buyer immediately became the "ultimate problem" for the dealer because he couldn't get financing for many people who wanted to buy cars.

It is true that banks continued to finance cars for their regular customers, but on a very selective and restrictive basis. Some banks have gotten out of the car financing business altogether (except on a direct basis) while others that have stayed in the business are discounting the contracts they buy from dealers. It is important to remember that dealers must co-sign or guarantee those contracts sold to banks or financial institutions even though discounted.

The captive finance companies - - GMAC and Ford Motor Credit (Chrysler Credit does not have an office in Montana and does only a limited amount of business in the state) have done their best with their dealers during these difficult times, but are losing money on every new vehicle contract they buy in Montana.

We question how long they will continue buying contracts at a loss. In addition, not all dealers have access to a captive finance source - - Chrysler - Plymouth - Dodge - all import dealers - AMC - and Jeep dealers have no access to captive finance sources.

It is clear that shrinking financing is eroding the marketing system on which the entire industry is based - the ability of the consumer to buy a car on the installment plan.

A recent random telephone survey of several dealers around Montana indicates that the turn-down rate on consumer financing has been running between 20 and 40% over the last 9 to 10 months. There is no doubt that the scarcity of financing is still a problem today for the average consumer.

The Cause of the Problem

There is no argument about the cause of the problem, or the fact that it is a Montana legislative problem - not national. In fact, last spring the U.S. Senate was addressing the usury problem with a bill to temporarily override state usury limits but failed to take action because it was strongly felt that usury is a state's right.

Ceiling rates for automobile financing by dealers are set forth in the Retail Installment Act enacted in 1959. This law was designed to regulate car financing and protect the consumer by requiring standard provisions in contracts.

These ceilings, now 22 years old, were established with plenty of leeway, with the knowledge that the legislature could change them as need arose. It is significant to note that the prime rate in 1959 was 5%.

These ceiling rates are stated as add-on rates:

- Class 1 - $7 per $100 per annum for new car
- Class 2 - $9 per $100 per annum for used car up to 2 years
- Class 3 - $11 per $100 per annum for used car over 2 years

The rates are translatable into Annual Percentage Rates (APR) which vary slightly depending upon the period of the loan. Using a period of 36 months, because it ties in with the attached rate sheet, we find that the add-on rates are equivalent to an APR of 12.83%, 16.24%, and 19.57%.

What has happened is that lenders have found that 12.83% is well below their average cost of money, and they're not in business to lose money.

The Numbers

At the start of our fiscal year, January 1, 1980, the MADA had 244 members which represented 96% of the 255 franchised new car and truck dealers in this state.

Since January, 1980, more than 30 dealerships have closed their doors. Only a few of these have been taken on by someone else - - most of them are still closed. Many of the 500 former employees of these dealerships have moved elsewhere, and many others are still not working.

Our field representative and the registration records from the Registrar's Bureau in Deer Lodge report that new vehicle sales were off by 21% statewide during 1980.

In checking with our dealer body we find that at least 20 other dealers are in difficult financial straits - - placing another 340 jobs in jeopardy.

Other States Legislative Action

In many other states, the car finance ceilings were as low as ours, or low enough to be inadequate, and when the nation-wide skyrocketing rise in interest rates hit, most other state legislatures took action to help their dealers, their economies, and their consumers.

The attached rate sheet shows ceiling rates in effect in 50 states. This sheet is up to date as of December, 1980.

Our neighboring states have all taken the necessary action. Their rates are set forth below as APR rates, based on 48 month loans:

Idaho	18%
North Dakota	18%
South Dakota	20%
Wyoming	18%

The State of New York was the most recent to take action. Effective December 1, 1980, automobile financing was deregulated in New York in a manner similar to this bill by eliminating add-on rates and allowing the competitive marketplace and the availability of money to determine the interest rate negotiated between the retail seller and the buyer.

The Reason We Need Help

The shrinking availability of financing for the average car buyer has become the SHRUNKEN availability of financing. The high-salaried person has little problem, but the average person with a modest income still finds that nobody really wants his new car finance business.

People on the lower end of the economic ladder, who have been considered marginal risks a year ago, but who still might have been qualified because the dealer guaranteed the contract, are simply out of luck now.

If automobile dealers are ever to regain their rightful share of the market, and if we are to safeguard the more than 3500 jobs provided by our dealers, this legislative action is necessary in order that Montana will once again become a reasonable, profitable market for car financing.

We <u>do not</u> feel that eliminating the rate ceilings would lead to overcharging on interest. On the contrary, we feel that deregulation would make the car financing business competitive once again in Montana, particularly with the Savings & Loans now being authorized to get into the consumer finance area.

We feel that passage of this bill would create a situation whereby banks, the captive sources, Savings & Loans, and credit unions would be placed in a very competitive situation in competing for consumer car financing which would tend to keep interest rates down.

We have also attached a sheet showing the difference in monthly payments at varying APR's beginning with our current 12.83% up to 22% which is the highest the prime rate ever reached during 1980. It is interesting to note that the difference between the lowest and the highest interest rates on a $5,000 - 3 year loan is approximately $23 per month.

We respectfully urge the committee to give favorable consideration to this bill, and we thank you for the time you have given us.

INTEREST RATES ALLOWABLE ON NEW VEHICLES

STATE	A P R	SPECIAL CONDITIONS
Alabama	17.6%	Plus $20. fee - No limit over $5,000.
Alaska	17.6%	
Arizona	17.6%	
Arkansas	10.0%	Seeking constitutional amendment
California	20.75%	
Colorado	18.0%	
Connecticut	16.0%	
District of Columbia	21.5%	
Delaware	17.6%	
Florida	17.6%	
Georgia	17.6%	
Hawaii	18.0%	
Idaho	18.0%	
Illinois	20.75%	
Indiana	18.0%	
Iowa	20.75%	
Kansas	18.0%	
Kentucky	19.19%	
Louisiana	18.0%	
Maine	18.0%	
Maryland	21.5%	
Massachusetts	20.75%	
Michigan	16.5%	
Minnesota	17.6%	
Mississippi	18.0% - This date	5% over Federal discount rate
Missouri	17.6%	

STATE	A P R	SPECIAL CONDITIONS
Montana	12.68%	
Nebraska	18.0%	
Nevada	20.75%	
New Hampshire	16.0% - This date	3.0% over Federal discount rate
New Jersey	15.99%	
New Mexico	17.2%	
New York		Auto financing deregulated 12-1-80
North Carolina	16.0%	
North Dakota	18.0%	
Ohio	18.0%	
Oklahoma	18.0%	
Oregon	14.35%	
Pennsylvania		Rates vary with Federal discount rate
Rhode Island	21.0%	
South Carolina	18.0%	
South Dakota	20.0%	
Tennessee	No Limit	
Texas	13.51%	
Utah	18.0%	
Vermont	18.0%	
Virginia	24.0%	
Washington	12.0%	
West Virginia	18.0%	
Wisconsin	17.0% - This date	4.0% over Federal discount rate
Wyoming	18.0%	

MONTHLY PAYMENTS FOR A

$5,000 LOAN FOR 36 MONTHS

A P R	
12.83%	$167.68
13%	$168.47
14%	$170.89
15%	$173.33
16%	$175.79
17%	$178.26
18%	$180.76
19%	$183.28
20%	$185.82
21%	$188.38
22%	$190.96

NAME Karen Hess BILL No. HB 233-237

ADDRESS Box 504 Harlowton DATE 1-23-81

WHOM DO YOU REPRESENT Montana Seniors' Law League

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Exhibit B

HOUSE BILLS 238 AND 244
TESTIMONY OF JEFFRY M. KIRKLAND
DIRECTOR OF GOVERNMENTAL RELATIONS
MONTANA CREDIT UNIONS LEAGUE

BEFORE THE HOUSE BUSINESS & INDUSTRY COMMITTEE
ON FRIDAY, 23 JANUARY, 1981

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, FOR THE RECORD I AM JEFF KIRKLAND, DIRECTOR OF GOVERNMENTAL AND COMMUNITY RELATIONS FOR THE MONTANA CREDIT UNIONS LEAGUE. OUR LEAGUE IS A TRADE ASSOCIATION REPRESENTING 133 OF 136 CREDIT UNIONS IN MONTANA. 108 OF THOSE ARE FEDERALLY-CHARTERED, AND 25 ARE STATE-CHARTERED.

SINCE BOTH HOUSE BILLS 238 AND 244 WOULD AFFECT ONLY THE 25 STATE-CHARTERED CREDIT UNIONS, IT IS ON THEIR BEHALF THAT WE STAND IN SUPPORT OF BOTH BILLS. HOWEVER, SHOULD THE COMMITTEE DETERMINE THAT THERE IS INDUSTRY-WIDE NEED FOR RELIEF FROM CURRENT USURY CEILINGS, THAN OUR PREFERENCE WOULD BE THE RELIEF GRANTED UNDER HOUSE BILL 238.

EVERY ONE OF THE SEVEN BILLS YOU WILL BE DISCUSSING HAVE ONE CHARACTERISTIC IN COMMON, AND THAT IS THAT THEY ALL PROVIDE LENDERS AND GRANTERS OF CREDIT THE FLEXIBILITY TO TAILOR LENDING RATES TO CURRENT MARKET CONDITIONS. AND THERE IS, CATEGORICALLY, A DEFINITE NEED FOR THAT FLEXIBILITY TO ADJUST RATES TO RAPIDLY CHANGING MARKET CONDITIONS.

CURRENTLY, STATE-CHARTERED CREDIT UNIONS ARE LIMITED TO CHARGING A MAXIMUM OF 15% ON CONSUMER LOANS. HOWEVER, A LITTLE OVER A MONTH

AGO THE NATIONAL CREDIT UNION ADMINISTRATION, UNDER EMERGENCY AUTHORITY, RAISED THE FEDERAL CREDIT UNIONS' 15% LOAN RATE CEILING TO 21%. THAT MEANS THAT 110 OF MONTANA'S 136 CREDIT UNIONS NOW HAVE A 21% CEILING. THAT ACTION BY THE FEDERAL REGULATORY AGENCY GRAPHICALLY SHOWS THE IMMEDIATE NEED FOR RELIEF FROM CURRENT USURY CEILINGS.

THAT NEED ALSO EXISTS FOR OUR 25 STATE-CHARTERED CREDIT UNIONS WHOSE LENDING RATE CEILING STILL REMAINS AT 15%.

YEARS AGO USURY CEILINGS COULD BE ESTABLISHED BY THE LEGISLATURE WITH LITTLE WORRY THAT THEY MIGHT BECOME OUTDATED BEFORE IT CONVENED IN TWO YEARS. TODAY, THAT IS NOT THE CASE. LENDERS NEED THE FLEXIBILITY TO ADJUST RATES IN RESPONSE TO RAPID AND SOMETIMES WILD CHANGES IN THE MONEY MARKET.

WE'VE INCLUDED A CHART SHOWING THE PRIME INTEREST RATE FROM 1919 TO 24 NOVEMBER 1978, AND YOU CAN SEE THAT, ALTHOUGH THE PRIME RATE CHANGED FROM TIME TO TIME, THE CHANGE WAS GRADUAL AND NORMALLY IN SMALL QUARTER-PERCENT INCREMENTS.

IF YOU'LL TURN TO THE SECOND PAGE OF OUR EXHIBITS, WE HAVE DEVELOPED A CHART GRAPHING THE NEW MARKET ENVIRONMENT WE ALL LIVE WITHIN--CHARACTERIZED BY RAPIDLY CHANGING, RAPIDLY INCREASING PRIME RATES. DURING THE 18-WEEK PERIOD FROM 12 SEPTEMBER 1980 THROUGH 2 JANUARY 1981, THE PRIME ESCALATED FROM 12.25% TO 21% AND THEN DOWN TO 20%. JUST COMPARE THE ACTIONS OF THE PRIME RATE DURING THAT 18-WEEK PERIOD WITH THOSE FROM 1919 TO 24 NOVEMBER 1978.

THE PRIME RATE, OF COURSE, IS ONLY ONE OF MANY INDICATORS, BUT IT DOES AFFECT THE CREDIT UNIONS' COST OF BORROWED FUNDS, AND IT DOES AFFECT THE RATES CREDIT UNIONS HAVE TO PAY ON SAVINGS INSTRUMENTS TO REMAIN COMPETITIVE. IF YOU'LL LOOK AT THE SAME CHART, YOU CAN SEE HOW CREDIT UNIONS' COST OF BORROWED FUNDS REACTED TO CHANGES IN THE

PRIME RATE AND HOW THE COST OF THOSE FUNDS COMPARED TO THE 15% MAXIMUM STATE-CHARTERED CREDIT UNIONS CAN CURRENTLY CHARGE FOR LOANS.

OBVIOUSLY, IF THE RATES CREDIT UNIONS OR ANY FINANCIAL INSTITUTIONS PAY FOR THEIR FUNDS ARE GREATER THAN THE RETURN THEY EARN FROM THE LENDING OF THOSE FUNDS, THEY HAVE TO STOP LENDING--OFTEN TO THE DETRIMENT OF THE CONSUMER.

THE CONCEPT OF USURY CEILINGS AROSE HUNDREDS OF YEARS AGO WHEN THE USE OF CREDIT WAS RELATIVELY RARE AND WHEN THERE WAS NOT ENOUGH OF A MARKET OR ENOUGH COMPETITION TO EFFECTIVELY DETERMINE LENDING RATES. HOWEVER, TODAY THERE IS NO NEED FOR ARTIFICIAL USURY CEILINGS, FOR WHAT THE MARKET GIVETH, THE MARKET ALSO TAKETH AWAY. THAT IS, COMPETITION AMONG THE VARIOUS LENDERS TODAY DETERMINES THE RATES CHARGED ON LOANS--THAT AND THE COST OF FUNDS.

IF THE CREDIT UNION IS MAKING NEW CAR LOANS AT 15% AND THE BANK IS MAKING THEM AT 13%, PEOPLE ARE GOING TO GO TO THE BANK. AND IN OUR INDUSTRY, IF FEWER PEOPLE BORROW, CREDIT UNION EARNINGS DECREASE. SO THE RATE MUST COME DOWN TO MEET THAT OF THE COMPETITION. THAT TYPE OF COMPETITIVE INTERACTION AND NOT USURY CEILINGS DETERMINES ACCEPTABLE LEVELS FOR LENDING RATES.

IN CONCLUSION, THERE IS A DEFINITE NEED TO ADDRESS THE LIMITATIONS OF OUR CURRENT USURY CEILINGS. WHILE ARTIFICIALLY LOW USURY CEILINGS DO IN FACT KEEP LENDING RATES LOW, THEY ALSO TEND TO DRY UP CONSUMERS' SOURCES OF CREDIT WHEN THE RATES FINANCIAL INSTITUTIONS PAY FOR THEIR FUNDS ARE GREATER THAN THE RETURN THEY RECEIVE FROM THE LENDING OF THOSE FUNDS.

LENDERS NEED THE FLEXIBILITY TO ADJUST THEIR RATES IN RESPONSE TO RAPID AND SOMETIMES WILD CHANGES IN THEIR COSTS OF FUNDS. SINCE FIRM CEILINGS HAVE THE EFFECT OF CURTAILING THAT FLEXIBILITY AND IN

DOING SO MAKING CREDIT MORE DIFFICULT TO OBTAIN FOR THOSE WHO MOST NEED CREDIT AT RELATIVELY REASONABLE RATES, WE NEED THE TYPE OF FLOATING RATE PROVISION AS PROVIDED FOR IN HOUSE BILL 244 OR, BETTER YET, A COMPLETE REMOVAL OF ALL USURY CEILINGS AS PROVIDED FOR IN HOUSE BILL 238.

FOR THOSE VERY COMPELLING REASONS, WE URGE THAT THIS COMMITTEE RECOMMEND THAT HOUSE BILL 238 DO PASS.

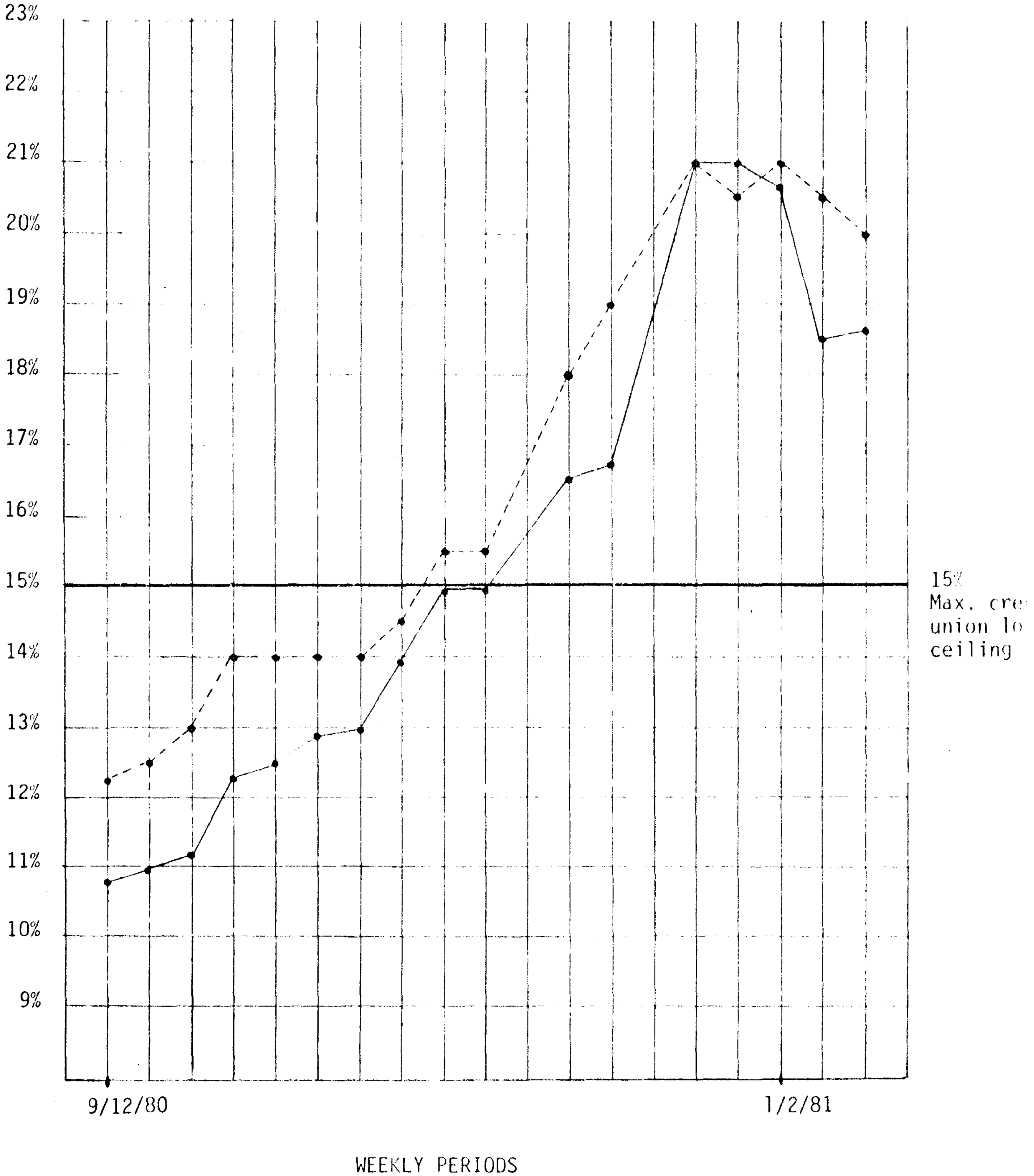
CHRONOLOGY

Prime Interest Rate

		1919	5 1/4%
		1920	7
		1925	3 1/2
		1928	5 1/2
		1929	6
		1933	1 1/2
Jan.		1948	1 3/4
Aug.		1948	2
Sept.		1950	2 1/4
Oct.		1950	2 1/2
Oct.		1951	2 3/4
Dec.		1951	3
Apr.		1953	3 1/4
Mar.		1954	3
Aug.		1955	3 1/4
Oct.		1955	3 1/2
Apr.		1956	3 3/4
Aug.		1956	4
Aug.		1957	4 1/2
Jan.		1958	4
Apr.		1958	3 1/2
Sept.		1958	4
May		1959	4 1/2
Aug.		1959	5
Aug.		1960	4 1/2
Dec.		1965	5
Mar.		1966	5 1/2
June		1966	5 3/4
Aug.		1966	6
Jan.		1967	5 3/4
Mar.		1967	5 1/2
Nov.		1967	6
Apr.		1968	6 1/2
Sept.		1968	6 1/4
Dec.		1968	6 1/2
Dec.		1968	6 3/4
Jan.		1969	7
Mar.		1969	7 1/2
June		1969	8 1/2
Mar.	25	1970	8
Sept.	22	1970	7 1/2
Nov.	13	1970	7 1/4
Nov.	24	1970	7
Dec.	22	1970	6 3/4
Jan.	7	1971	6 1/2
Jan.	15	1971	6 1/4
Jan.	18	1971	6
Feb.	16	1971	5 3/4
Mar.	12	1971	5 1/2
Mar.	23	1971	5 1/4
Apr.	24	1971	5 1/2
July	8	1971	6
Oct.	22	1971	5 3/4
Nov.	8	1971	5 1/2
Dec.	21	1971	5 1/4
Jan.	10	1972	5
Jan.	26	1972	4 3/4
Mar.	28	1972	5
June	27	1972	5 1/4
Aug.	28	1972	5 1/2
Oct.	3	1972	5 3/4
Dec.	26	1972	6
Feb.	2	1973	6 1/4
Mar.	26	1973	6 1/2
Apr.	18	1973	6 3/4
May	7	1973	7
May	25	1973	7 1/4
June	8	1973	7 1/2
June	22	1973	7 3/4
July	3	1973	8
July	11	1973	8 1/4
July	19	1973	8 1/2
July	31	1973	8 3/4
Aug.	7	1973	9
Aug.	14	1973	9 1/4
Aug.	22	1973	9 1/2
Aug.	28	1973	9 3/4
Sept.	18	1973	10
Oct.	23	1973	9 3/4
Feb.	2	1974	9 1/2
Feb.	21	1974	9
Feb.	27	1974	8 3/4
Mar.	22	1974	9
Mar.	30	1974	9 1/4
Apr.	4	1974	9 1/2
Apr.	9	1974	9 3/4
Apr.	11	1974	10
Apr.	22	1974	10 1/4
Apr.	25	1974	10 1/2
Apr.	29	1974	10 3/4
May	6	1974	11
May	13	1974	11 1/4
May	20	1974	11 1/2
June	28	1974	11 3/4
July	8	1974	12
Oct.	10	1974	11 3/4
Oct.	22	1974	11 1/2
Oct.	29	1974	11 1/4
Nov.	12	1974	11
Nov.	19	1974	10 3/4
Nov.	25	1974	10 1/2
Jan.	13	1975	10 1/4
Jan.	20	1975	10
Jan.	27	1975	9 3/4
Feb.	3	1975	9 1/4
Feb.	11	1975	9
Feb.	20	1975	8 3/4
Feb.	28	1975	8 1/2
Mar.	10	1975	8 1/4
Mar.	12	1975	8
Mar.	19	1975	7 3/4
Mar.	27	1975	7 1/2
May	21	1975	7 1/
June	10	1975	7
June	16	1975	7 1/
July	28	1975	7 1/
Aug.	12	1975	7 3/
Sept.	15	1975	8
Oct.	28	1975	7 3/
Nov.	4	1975	7 1/
Dec.	2	1975	7 1/
Jan.	13	1976	7
Jan.	22	1976	6 3/
June	1	1976	7
June	7	1976	7 1/
Aug.	3	1976	7
Sept.	27	1976	6 3
Nov.	2	1976	6 1/
Dec.	14	1976	6 1/
May	16	1977	6 1/
May	31	1977	6 3/
Aug.	22	1977	7
Sept.	19	1977	7 1
Oct.	7	1977	7 1/
Oct.	21	1977	7 3/
Jan.	10	1978	8
May	2	1978	8 1/
May	26	1978	8 1/
June	16	1978	8 3
June	30	1978	9
Sept.	1	1978	9 1/
Sept.	15	1978	9 1/
Sept.	29	1978	9 3/
Oct.	13	1978	10
Oct.	30	1978	10 1/
Nov.	1	1978	10 1
Nov.	6	1978	10 3/
Nov.	17	1978	11
Nov.	24	1978	11 1

CREDIT UNIONS : COST OF BORROWED FUNDS
FOR 18-WEEK PERIOD

SEPTEMBER 12, 1980 to JANUARY 16, 1981



Dotted line: Prime rate
Solid line: Cost of borrowed funds

Exhibit C

MONTANA BANKERS ASSOCIATION
mba
ARCADE BUILDING SUITE 4H
HELENA, MONTANA 59601
PHONE 406/443-4121

EXECUTIVE VICE-PRESIDENT
JOHN T. CADBY

TESTIMONY BEFORE THE HOUSE BUSINESS AND INDUSTRY COMMITTEE
IN SUPPORT OF HB #238 and #239

FRIDAY
JANUARY 23, 1981

Good morning Mr. Chairman and members of the Committee:

I am John Cadby, executive vice president of the Montana Bankers Association. Our Association has as dues paying members the large and small, independent and group, state and national, city and rural, or all 165 banks in the State of Montana. In their behalf, we thank you for giving us this opportunity to speak in support of House Bills #238 and #239.

The attached cites the detrimental effects of interest rate ceilings on the consumer, the farmer, the businessman and the economy of Montana. Also, enclosed is a speech given by a professor of economics to the Arizona legislature who repealed all their ceilings last year. In fact, most countries in the world and many states in this nation have removed all interest rate ceilings leaving it up to the borrower and the lender and the purchaser and the seller to negotiate a mutually agreed upon rate of interest in a free and competitive market.

In this era of deregulation and intensified competition, money like any other commodity should be subject to the marketplace and not the law. Congress has recognized this by deregulating financial institutions to stimulate competition, by preempting state usury laws to prevent distortions of credit and eliminating ceilings on savings to stimulate economic growth.

Interest rate ceilings drive money out of the state, restricts credit availability, creates discrimination, penalizes savers, does not protect the consumer and fuels inflation. In short, interest rate ceilings are no good for anyone in Montana and should be abolished once and for all by passing House Bills #238 and #239.

Today we have legal counsel for MBA, Mr. George Bennett and bankers from throughout Montana to respond to questions if any from members of the committee. We also have additional studies and articles on the subject of interest rates by economists and experts throughout the nation in the event the committee would like more information on this subject.

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EFFECTS OF INTEREST RATE CEILINGS ON:

Economy and Inflation

Statistics show states without interest rate ceilings have better economies than states with strict usury laws.

Depositors receiving 5% on savings with inflation at 13% are losing 7% on purchasing power plus income taxes must be paid on the 5½% interest received and the result is lower percentage of savings of disposable income, thereby resulting in less investment capital for economic growth, less productivity and higher inflation.

Inflation is a primary cause of high interest rates. When inflation was zero, banks were lending money at 3%. Twenty years ago the inflation rate was 2% and the national prime rate average was less than 5%, even though Montana had a usury ceiling of 10%.

Most foreign countries do not have the interest rate ceilings. England repealed their usury law over 100 years ago.

Six states have no ceilings on regulated lenders. South Dakota removed interest rate ceilings on regulated lenders last year. California removed their ceilings on regulated lenders 50 years ago. New York and Arizona recently removed all interest rate ceilings.

Availability of Capital

Interest rate ceilings drive money out of the state, consequently there is less working capital for farmers and businessmen and less credit for consumers.

Money does not recognize any geographical boundaries and flows to the highest bidder. Public funds as well as individual savings will flow out of state if Montana's financial institutions are prohibited from offering competitive interest rates.

Savers

Interest rate ceilings penalize savers by preventing financial institutions from paying marketplace rates.

Regulation Q is being phased out by Federal Law thereby subjecting the saver to the marketplace.

High interest rates have educated savers to shop for the highest yield.

Borrowers

Restrictive interest rate ceilings increase demand and decrease the supply of funds, so funds are rationed to favored customers.

Interest rate ceilings hurt those persons they are designed to help namely the poor, young and those less credit worthy due to limited amounts of capital.

Credit contracts are not only subject to rates of interest but maturity, down payments, security required and credibility of the purchaser. The lower the interest rate ceilings, the more restrictive other credit terms become.

Consumer Protection

"The best allocation of resources and the best protection to the consumer is a freely competitive market". (Dr. John Buchler)

In a free market, interest rates are self-regulating and self controlling.

To single out the credit market to protect the gullible does not make sense when there are no price controls on any other product or service in the marketplace.

Between government regulators and fierce competition it is inconceivable a regulated lender could gouge its unsophisticated borrowers.

The discipline of the marketplace is the best discipline in controlling inflation and interest rates.

The Federal Truth and Lending Act requires all lenders and retailers to use the Annual Percentage Rate so borrowers and purchasers are able to compare rates advertised by financial institutions and retail stores.

Stability of Financial Institutions

Today, eighty percent of loans are funded by purchased money that is acquired by paying the market rate and not low cost savings and checking accounts as in the past. A profitable bank is the best security for the depositor, even preferable to FDIC Insurance. All banks, savings and loan and credit unions are vulnerable to high inflation and unstable interest rates. Their only hope is the ability to adjust to sudden fluctuations in the marketplace.

Any interest rate ceilings cannot adjust to a volatile interest rate market as has been experienced in the United States for the past six years. Said rates would have to be adjusted every legislative session and still would not keep up with the daily fluctuations in the marketplace. The same is true for any floating interest rate ceiling tied to a governmental indicator as the discount rate is a politically established rate to attempt to control inflation and is not changed necessarily when changes take place in the marketplace.

Exemptions to State Usury Law

The first exception to Montana's archaic 10% usury rate was in 1889 when pawnbrokers were allowed to charge 3% per month or 36% per annum. In 1911 wage brokers were allowed to charge 12% and in 1963 credit unions were allowed to charge 1% per month or 12% per annum. In 1975, the legislature raised the credit union rate to 1¼% per month.

In 1959, the Montana legislature carved out another exception creating the Montana Consumer Loan Act, allowing finance companies to charge higher rates of interest which has been subsequently amended to increase the size of the loans and provide higher interest rates. Also in 1959, the legislature enacted the Montana Retail Installment Sales Act, allowing higher rates of interest on all retail installment loans including motor vehicle sales. In 1969, the banks were allowed to charge higher interest rates on installment loans.

Up until 1975, the general usury statute provided a maximum interest rate to 10% per annum, except for the above mentioned exceptions. In 1975 the Montana legislature enacted a floating ceiling which is in conflict with the exceptions above.

Discrimination

Small banks are unfairly penalized by interest rate ceilings as larger banks have a higher percentage of loans not covered by interest rate ceilings.

Banks, credit unions and savings and loans are discriminated against, being subject to ceilings when PCA's, Federal Land Banks and other competitors are not subject to any interest rate laws.

Federally chartered financial institutions such as credit unions are allowed to charge a higher rate of interest than state chartered financial institutions.

Farm equipment and truck manufactures credit companies are allowed by federal law to charge a higher interest rate whereas automobile and appliance dealers in Montana and their credit companies are subject to state law and lower interest rate ceilings.

It is virtually impossible to define a consumer loan, installment loan, a personal loan, agricultural or business loan to determine the legal rate of interest. All such loans would qualify as installment loans under state law, which defines an installment loan as any loan with one or more payments, yet legal ceilings vary from 12½% to 21% under state and federal laws, depending on the type of loan.

The Montana Development Credit Corporation is unable to make venture capital loans to high risk borrowers, due to the restrictive usury law. Typically, Montana's floating usury statute is below the average prime rate.

Highlights of Speech of

Dr. John Buehler, Professor of Economics, University of Arizona

February 26, 1980

It is my understanding I was invited here this evening to comment on the question of usury laws. I would like to make this recommendation . . . that there is no better program you could follow than to remove all ceilings on all interest rates. Interest rate is the price of credit. As other prices rise, the price of credit rises also. There is a misconception in this country that the reason interest rates are going up now is because the federal government is doing something about it. In a sense, this is true, but interest rates are rising because the federal government and the federal reserve system has followed a highly inflationary policy since late 1975. In a very crude sense, one can take about 3% on top of inflation rates to come up with a nominal rate of interest. The reason we are in a very dangerous situation right now is because the nominal rate of interest; that is, the interest rate that you and I see in the marketplace, whether we are savers or whether we are lenders, has actually been below the expected rate of inflation. And should the public ever adjust to the actual rate of inflation, which for the month of January was in an excess of 16% of consumer prices, and if you add another 3% onto that, you are looking at a 19% to 20% long-term rate.

To get on with the main topic, the trouble with regulation is that it interferes with the market. The best allocation of resources and the best protection to the consumer is a freely competitive market. The only justification in any market is when that market is monopolized. In today's world, financial markets are difficult, if not impossible, to monopolize, simply because of the mobility of funds. There is no bank that can monopolize the market in a large urban area because funds can be moved across state lines and national boundaries with telephone calls. So what are the consequences of interest rate ceilings? You set the regulative rate below the true market equilibrium rate. First of all you have a situation where the demand exceeds the supply and shortages must develop. The available quantity that is supplied now has to be rationed. Now some will be excluded from the market. Normally, the test will be on risk. What it comes down to, is there going to be an income test or a wealth test? There are others who are going to be subsidized. In other words, they are going to be paying a lower rate than they would otherwise pay if you allowed the market to work. So if you were a very rich person, then you ought to favor usury limits. Because you will wind up subsidizing the rich at the expense of the poor. In addition to that the available quantity of credit that appears on the market is going to be less than otherwise. So what does this mean? It means that funds are going to be shifted to other alternatives or they are going to leave the region entirely. And I would submit to you that Arizona is a growth state. You want to attract capital from outside. You do not want to be exporting it. The largest bank and the second largest bank in the state look over their shoulders constantly to see what the other banks are going to do. More importantly, they are not just concerned about the banks in Arizona because funds can be moved very easily from one state to another with a telephone call. In other words if a small bank in Arizona is in a position to take a very important loan, and is competing against the largest bank in the state, it is not limited to its own resources. It can move in the market and very quickly.

There is another concept of regulated rates. It is that growth will suffer, employment, income and tax revenue will be lower. In addition to that, it is a direct encouragement to loan sharking. If you want to establish a loan shark market, then set the regulated rate below the equilibrium rate, and you have created a new market for people to enter, with all the unfortunate consequences we have observed when that occurs.

Now you might want to consider what the impact would have been in Arizona if a usury law had been binding in sometime in the past. The obvious question to ask, is what would have been the right rate? Once you move away from a free market rate then somebody has got to decide what the right rate is. Nobody is smart enough to know that, because once you are below the true equilibrium rate you are going to have a misallocation of resources. What has happened in Arizona is that in the last four or five years, because it is a growth state, employment, income, tax revenue and wealth have increased dramatically. In fact the individual property owner has found that housing has been the best hedge against inflation. Inflation is somewhat capricious. It hits very hard at different groups depending upon what assets you own or do not own. The one group that has survived this inflation very well, in fact profited from it, is the residential homeowner. Because the rate of inflation in residential housing has exceeded the rate of inflation in consumer prices. The groups that have been hurt the hardest are the working poor, and surprising enough the rich people who have had bonds in their portfolio. In fact the people who are depending upon their pensions sometime down the road, might look over their shoulder to see what has happened to those pension funds in the last week, as a result of a collapse of the bond market. Now, the question is, how high are interest rates? When do you want to do something about it? Well, interest rates are not high independent of everything else. They are related to the rate of inflation. If the rate of inflation goes up, interest rates are bound to go up. And if they come down, the consumer is actually protected to some extent especially on residential mortgages, because the individual who has taken on a 12% mortgage today, if interest rates should go back to the rates of the 1960's, he will have the option of refinancing, although he will pay some penalties.

The problem we have had in this country for the past four or five years is that the effective rate of interest has been negative. So borrowing money has been a heck of a bargain. If you borrow money at 10%, the inflation rate is 12%, you can't lose. In fact, the guy lending it becomes the sucker, it seems. The people have figured that out as far as housing is concerned. While we have lamented the fact that mortgage rates have risen, the fact of the matter is the inflation rate on housing has far outstripped them. If the price of housing is going up at 2% a month, 24% a year, and you are only borrowing 10% of the money, and you are paying 12%, you could pay 20% and still make a substantial profit. So the interest rate is not going to restrict you from borrowing the money to buy the house, as long as you are faced with that kind of an expected rate of inflation.

Housing starts are down now because the rate is starting to bite on some groups, and there is also some question as to the availability of funds in some parts of the country. Where some states do have usury laws, funds are moving out of that area into higher rates of return. So there is some problems with availability.

We have to look at the root causes of inflation. And I think the root cause of inflation is very clear. It results from an over-expansion in the money supply in the central banks. What will happen if interest rates rise and the federal reserve system at the same time tightens down and does not contribute to a further expansion in the money supply, aggregate demand will slow down. The growth in aggregate demand will be arrested, then as the individual businessman tries to pass the higher interest costs on to the consumer, the field will be faced with resistance. There is going to be tremendous pressures on the federal reserve system if we start to head into a recession.

Some of what we have observed in the bond market this last week is reminiscent in what happened in the stock market crash of 1929. Things never happen in the same way twice. But if the public believes, not only in this country but in other countries as well, if the United States is not going to deal effectively with the rate of inflation, and if they are going to continue to pump money into the system, nobody is going to want to hold bonds, and nobody is going to want to hold mortgages. And the way you avoid suffering a substantial capital loss is to unload those instruments -- get rid of them before the price goes down and the act of doing this will drive the price down and drive the interest rate further.

To go back again, we have generated an inflation rate in this country that is not sustainable over a long period of time. What has happened is the rates of inflation has outstripped the rising interest rates. If you are a lender, you do not want to lend me a hundred dollars for a year at 10% interest if over the course of that year prices are going up to 15%, because you are a loser. Now what has happened in this country is that the public has not adjusted to the actual rate of inflation. In fact, the public has had a lot more confidence in our system than perhaps they have had any right to have. So you have had a rate of inflation that has far outstripped interest rates. Now if the public comes to the conclusion that the government is not going to deal effectively with the rate of inflation, and they adjust their own behavior accordingly, then only a fool would continue to hold dead instruments. This does not apply just to people in the United States -- it applies to the OPEC countries as well. In other words, you do not want to hold an asset that is going to go down in price. And the best way to beat that game is to sell it before it goes down. So the act of everybody selling those instruments to beat the price decline, which in turn will generate a price decline, and I would submit that this is partly what has happened in the bond market today. Now the federal reserve system has moved to try and tighten up on the money supply. Apparently they made some efforts in October of 1979, but if you have spent four or five years screwing up the system, you are not going to put it back in order in six or nine months. It will probably take an extended period of time, to get the ship back on course. For one thing, you have got to convince people that hold these assets that you do mean business. And if they have watched you misbehave over a long period of time, like going to church for a couple of times in a row, isn't going to convince them that you have seen the light. They are going to require a great deal more gratification of a tightening up policy before they are going to respond. So the problem is that we may have gone too far already. We may not be able to arrest the kind of speculation that is going on.

Now again, looking at it from the states standpoint, there is very little the state can do about it. You are at the mercy of the national economy. Interest rates and money markets are national markets — not local markets. It can move money around too quickly. If you sell some securities through your broker, the sale of those securites can be transmitted to the New York market within minutes. The worst thing a state can do, however, is to generate regulations which is going to interfere with the free flow of credit that is available.

Why do we have usury laws in the first place? I have always wondered about that myself. No one seems to say we should control the price of Coors beer or General Motors cars, -- we don't seem to worry about that, but we do worry about the price of credit. And the price of credit is just another price itself. Yet we feel compelled to do something different there. Some of it may have religious origins, and Sister Clare may know more about this than I, but it is true that back in the middle ages when usury laws were instigated, the countries where they were very slow in being removed, their growth and development was arrested. Spain and Portugal lagged very far behind other European countries because of usury laws. What would happen here if this state introduced a usury law is that the capital will leave the area. Again, we are a growing state. We need to be an importer of capital, we really don't want to export it. Again this applies to whether you're talking about the interest rate on residential mortgages or bank credit cards or the interest rate paid to savers.

Unfortunately, what has happened in this country is that the people who can least afford it are the ones who have been discriminated against. If you have a hundred thousand dollars, you have many options. If you have fifty dollars, your options are pretty much narrowed down to passbook savings, and those are regulated. This is not fair and it is not equitable. So there again, you have a case where regulation comes down and it hits very hard on lower income individuals.

There is some misconception that banks generate a tremendous amount of profit. However, if you take a look at the rate of return on bank capital, it is no better, and sometimes a heck of a lot worse than the rate of return on other types of capital. So common sense would dictate that the rate of return on bank capital is not excessible. If you need further confirmation on this, take a look at the cost of capital to the banks right now. At the close of business today the federal funds rate, that is the rate on one day money, was 14 1/8%. The interest rate on ninety day CD's is 15% but the effective costs of the banks is 17.86% because the banks have to keep reserves, that is non income running assets against those reserves. The interest rates on six month T-bill CD's is 13.5% and the effective rate is 13.85%. So the day is pretty much over where the banks can get money from their depositors at zero return or from checking accounts or 5.25% from savings accounts. They have to go out into the market and slug it out like everyone else. The last thing that we would want is to have an unhealthy institutional structure in this country. Because it is one of the institutions that has made this country very productive.

So in conclusion I would strongly recommend that you let the market work. Have confidence in the market and do not impose artificial ceilings because the costs are very, very high and they are also very inequitable.

Exhibit D

Executive Office
P.O. Box 440
34 West Sixth
Helena, MT 59624
Phone (406) 442-3388

Houssen

28 January 1981

BUSINESS AND INDUSTRY COMMITTEE
OF THE HOUSE OF REPRESENTATIVES:

RE: HOUSE BILL NO. 239

We, the retail community members, need your help in obtaining relief from the interest rate/credit squeeze.

In many cases we find it impossible to sell our products for cash and we therefore have to extend credit to our customers which allows them to finance their purchase. This is not only true in the case of one item large purchases, but is also true in quanity purchases such as new clothes for the children at the beginning of the school year.

The bulk of our capital is invested in furniture, fixtures, stock and, in some cases, real property. Most of us have to borrow money to operate our credit departments.

We find it difficult to borrow money at today's rates and lend that money out at a maximum of 18% and not see our profits disappear.

We find ourselves between a rock and a hard spot in that to make many of our sales we must extend credit and extending that credit reduces our overall operating profit.

We do not want to be in the business of financing purchases, but we have no choice. If we are to be competitive with the large multi-state operations we must and yet, we can not afford to lose money like they do. J. C. Penney and Company alone lost some 54 million dollars on their credit operations during their last fiscal year.

We do not want or request any special favors. We feel that we can compete fairly and squarely as long as there is fair competition in the marketplace.

We do however feel that to remove interest rate ceilings and usury statutes from "regulated lenders", places us at a big disadvantage in the market place and thereby nurtures unfair business practices, unless House Bill No. 239 is looked on favorably, by this committee and receives a do pass recomendation without amendment to place a ceiling on interest rates for those of us that must operate under the "retail installment sales act".

I know there are some concerns about "Open-End Credit Transactions", which include revolving charges and credit card transactions.

I know it has been said that Open-End Credit of this type is not protected by the Federal Truth in Lending Statutes. However, attached you will find excerpts from the federal statute to demonstrate that such transactions are covered by that federal statute and that a full disclosure is required just as it is in other type transactions.

Please, do not affix any self-defeating interest rate ceiling to House Bill No. 239 and move it out of committee with a "DO PASS" recommendation.

Sincerely,

C. B. Hansen

Curtis B. Hansen
Executive Vice President

Chapter V

Open-End Credit

Open-end credit is consumer credit extended on an account pursuant to a plan under which:

1. the customer is permitted to make purchases or obtain loans directly from the lender or indirectly by the use of a credit card, check, or other device;

2. the customer has the privilege of paying the balance in full or in installments; and

3. a finance charge may be computed from time to time on on the outstanding balance.

Under an open-end credit plan, it is contemplated that there will be repetitive transactions on a revolving basis.

The disclosures required for open-end credit differ substantially from those required for closed-end credit. This chapter will detail the various types of disclosures required and the procedures that must be followed. The rules for this section should be carefully scrutinized because they are among the most complex sections of Regulation Z.

A. Opening of Account

All new account disclosures must be given before the first transaction is made on the account. The required disclosure must be in writing and show the A.P.R. (Annual Percentage Rate) and the dollar amount of interest on the first transaction.

B. Periodic Statements

Each periodic statement must show the previous billing period's balance, payments/credits, new purchases/charges, the finance charge, the balance on which the finance charge was computed, the A.P.R. (Annual Percentage Rate), the closing date of the billing period, new balance, periodic rate, corresponding annual percentage rate, the balance on which the finance charge was computed, and a place "send inquiries to", and advice of their rights to dispute any charge.

The disclosure program for open-end credit accounts differs substantially from that for closed-end credit. Typical open-end credit plans are bank credit card arrangements and overdraft checking accounts.

Open-end credit involves two types of disclosures: (1) those to be made before the first transaction on the account, and (2) those to be made with each periodic billing statement, generally monthly, for transactions taking place during the period.

It is important that examiners closely review a bank's open-end credit plan to determine compliance. A bank's exposure to liability for violations is greatly increased under an open-end credit plan, since a violation in the disclosure format or in the Annual Percentage Rate may adversely affect many individual cardholders simultaneously and result in a class action law suit.

As stated in the Introduction to "Truth in Lending," the term open-end credit describes a plan which usually permits frequent extensions of credit, generally in small amounts, up to an agreed limit. The consumer has the option of paying the balance in full or in instalments. The fact that a finance charge may be imposed on the outstanding balance should not be considered in determining if a particular credit card plan is open-end credit. The term does *not* include *negotiated* advances under a future advances provision of a real estate mortgage or a letter of credit.

Issuance of Credit Cards

Banks cannot issue unsolicited credit cards. A credit card may be issued only if:

- It is requested or applied for (telephone solicitations are permissible); or 226.13(a)
- It is a renewal of, or in substitution for, an accepted credit card. L 642 L 1193 FC 0041 FC 0070 FC 0072

Conditions of Liability of Consumer

A consumer can be held liable for unauthorized use of a credit card only if: 226.13(b)

- The credit card is an accepted one, *i.e.*, requested and actually received by cardholder.
- The bank has notified the consumer of the potential liability for unauthorized use of the credit card. The notice may be printed on the credit card, or transmitted in a manner that reasonably assures its receipt by the cardholder. If the notice is not on the credit card, it must have been given within 2 years preceding the unauthorized use.
- The bank has provided the consumer with an addressed notification which requires no postage to be paid by the consumer and may be mailed in the event of loss, theft or possible unauthorized use of the credit card.

The bank cannot hold the consumer liable, if the liability conditions have not been complied with. When those conditions have been met, the consumer's liability for unauthorized use is limited to the cost of goods and services purchased before notice, or $50, whichever is less. L 445 L 550

If the bank tries to enforce liability for the unauthorized use of a credit card, the burden of proof is upon the bank to show that the conditions have been met or that the use was authorized. 226.13(f)

A bank issuing 10 or more credit cards to employees of a company, for business use, may negotiate with that firm the terms regarding its liability for unauthorized use. However, neither the bank nor the business may impose liability on the individual cardholder unless the liability conditions have been met, and, in any case, the liability of the employee cannot exceed $50. 226.13(h)

Specific Disclosures

Before the first transaction is made on an open-end account, the bank must give the consumer a single written statement, which he or she may retain, containing: 226.7(a)

- The conditions under which a finance charge may be imposed, including an explanation of the time period, if any, within which any credit extended may be paid without incurring a finance charge. However, the bank may elect not to impose a finance charge even if the payment is received after the allotted time period. That option need not be disclosed. L 1161
- The method of determining the balance on which the finance charge is computed.
- The method of determining the finance charge. This description must include the method of determining any minimum, fixed, check service, transaction or other charge.
- The periodic rate. If more than one periodic rate is applied, each rate must be stated with the balances or range of balances to which it applies. The corresponding Annual Percentage Rate(s) must also be stated and determined by multiplying the periodic rate by the number of periods in the year.
- The conditions under which any other charge may be imposed and the method of determining such a charge (late charge, etc.).
- The conditions under which the bank may acquire a security interest in any property to secure the payment of credit extended on the account, and a description or L 118 L 1018

identification of the type of security interest which may be obtained. If the consumer also has an open-end mortgage on his or her residence, the bank should, upon opening the account, waive its security interest in the real estate for any advances made with the credit card. Use of the credit card would place a lien on the real estate each time a purchase, advance or overdraft was made. In those cases, the customer is entitled to rescind the transactions, and funds or goods cannot be disbursed for 3 days. Unless the security interest is waived when the account is opened, the consumer would have to be given the right of rescission each time the card is used. Exceptions to this requirement, however, are provided in 226.9(g)(6).

- The minimum periodic payment required.
- A statement outlining the consumer's rights to dispute billing errors. The statement should contain substantially the same text as provided in 226.7(a)(9). If the statement does not appear on the face together with the other required disclosures, then one of the following notices must be there:

NOTICE: See accompanying statement for important information regarding your rights to dispute billing errors.

NOTICE: See reverse side for important information regarding your rights to dispute billing errors.

The bank may also elect to include in its initial disclosure statement, the Comparative Index of Credit Cost. However, that optional disclosure is rarely, if ever, used. In the event that the Index is disclosed, section 226.11 of Regulation Z should be reviewed for required disclosures.

Periodic Statements

Disclosures

Each consumer, except those with accounts which are uncollectible or for which collection procedures have been instituted, must receive a statement at the end of each billing cycle, unless the undisputed outstanding debit or credit balance is $1.00 or less. However, if a finance charge is imposed, a statement must be issued regardless of the balance. If applicable, the following disclosures must be made on that portion of the periodic billing statement that the consumer may retain. *Terms shown in quotations are required terminology. Terms marked with an asterisk must appear on the face of the statement.* 226.7(b)

*1. "Previous balance"—This is the amount outstanding at the beginning of the billing cycle. If the previous balance is a credit, it must be indicated as such.

*2. "Payments"—This is the total amount paid by the consumer to the bank during the billing cycle.

*3. "Credits"—Amounts credited to the consumer's account during the billing cycle, such as returns, rebates of finance charges and adjustments. Those credits must be distinguished from payments.

*4. "Finance charge"—(Must be more conspicuous). This is the amount of the finance charge added to the consumer's account during the billing cycle. Each component of the finance charge must be itemized and identified. For example, the finance charge resulting from the application of the periodic rate and a cash advance transaction charge would be separately itemized. L 517 L 582

*5. The balance on which the finance charge was computed.

*6. "Annual Percentage Rate"—(Must be more conspicuous). L 517

*7. The closing date of the billing cycle. In addition, if the bank provides a free-ride period, the date by which, or the period within which payment must be made to avoid additional finance charges, must be disclosed. 226.7(b)

*8. "New balance"—This is the outstanding balance on the closing date of the billing cycle. If the new balance is a credit balance, it must be indicated as such. If the bank discloses a minimum payment due, it must not make that amount more conspicuous than the new balance. A more conspicuous minimum balance could be misleading since the consumer might unknowingly pay that amount rather than the new balance. L 538

9. "Periodic rate"—(or "rates"). This is the rate that may be used to compute the finance charge. Each rate used must be disclosed.

10. "Corresponding annual percentage rate"—This is the rate resulting from multiplying the periodic rate by the number of payment periods in the year. The terms "corresponding annual percentage rate," "corresponding nominal annual percentage rate," or "Annual Percentage Rate" are acceptable. The corresponding annual percentage rate is not required to be as conspicuous as the "Annual Percentage Rate" or more conspicuous than other terminology.

11. Explanation of determination of the balance on which the finance charge is computed. The bank is required to explain how it determines the balance on which the finance charge is computed. For example, if the bank uses the average daily balance method, it must explain how the average daily balance is computed.

12. "Send inquiries to"—(Must appear either on the face or reverse side of the statement and not on separate sheet.) The bank must state an address, preceded by the words "Send Inquiries To" or similar language, to which the consumer should L 1026 L 1042

send correspondence about his or her bill. A telephone number as or less conspicuous than the address may also be provided. However, the consumer cannot preserve his or her rights under the Fair Credit Billing Act, if an inquiry is made by telephone.

Description of Transactions

The consumer must be given a description of the item charged. The requirement for descriptions, generally referred to as *primarily required information,* may be fulfilled: 226.7(k)

- If a copy of the actual document evidencing the credit transaction is included. The enclosed copy (country club billing) or accompanying statement must reflect the amount of the transaction and either the date of the transaction or the date the charge is debited to the consumer's account.
- If in a purchase transaction a copy is not enclosed (descriptive billing), the periodic statement must reflect the amount of the transaction, the date on which the transaction took place and the seller's name and address (city and state or foreign country) where the transaction took place. If the consumer has purchased an item from the bank, or the seller is connected with the bank, the statement must instead give a brief identification of the item purchased as well as the amount of the transaction and the date on which the transaction occurred.
- If the credit transaction is non-sale credit, such as a cash advace or check-credit overdraft, a copy of the document evidencing the transaction and showing the dollar amount and date of transaction or date the transaction was debited to the consumer's account, or the date of the instrument may be included. If a copy of the document is not included, the statement must identify the transaction, cash advance, overdraft, etc., and include the amount and date of the transaction, or the date of the instrument evidencing the transaction.

Banks must maintain procedures reasonably adapted to obtain the primarily required transaction identification information described above. If despite such procedures that information is unavailable for a particular transaction, the bank must:

- Provide the date of debiting (posting date), if the date of the transaction is unavailable. The debiting date need not be provided if an actual copy of the document evidencing the transaction is furnished.
- Disclose as much of the primarily required information as is available and omit any portion that cannot be obtained.
- Treat a properly written billing inquiry relating to the absence of primarily required information as a billing error under section 226.2(j) and 226.14, and as an erroneous billing under 226.14(b). The bank must also furnish the consumer, free of charge, with documentary evidence concerning the transaction, even if not requested, unless it was previously furnished with a periodic statement.

Location of Disclosures

If any of the above disclosures which are not required to be shown on the face of the periodic statement appear either on the reverse side or on an accompanying statement, one of the following notices must be placed on the face of the statement: 226.7(c)(4)

NOTICE: See reverse side for important information. L 477

NOTICE: See accompanying statement(s) for important information.

NOTICE: See reverse side and accompanying statement(s) for important information.

The regulation states that the required disclosures shall not be separated so as to confuse or mislead the consumer or to obscure or detract from the information required to be disclosed. *Required disclosures must appear on that portion of the statement that the consumer may retain.*

If the bank provides a "free-ride" period, or a time period within which a consumer may pay any portion of the new balance without incurring an additional finance charge or other charges, the periodic statement must be mailed or delivered at least 14 days before the period ends. If the statement is not mailed at least 14 days prior to that date, then no finance charge, late charge, etc., may be imposed. The 14-day limit does not apply if the bank has been hindered because of an act of God, war, civil disorder, natural disaster or strike. 226.7(b)(2)

Determining the Balance and Computing the Finance Charge

There are many different ways to compute the Annual Percentage Rate, but first the examiner must know how to compute the balance on which the finance charge is determined. The balance is generally computed in three basic ways: the previous balance method, the daily balance method, and the average daily balance method.

In the *previous balance method,* the balance on which the finance charge is computed is based on the balance outstanding at the start of the billing cycle. The periodic rate is multiplied by this balance to find the finance charge. In the *daily balance method*, a daily periodic rate is applied to either the balance on each day in the billing cycle or the sum of the balances of each day in the cycle. If a daily periodic rate is multiplied by the balance on each day in the billing cycle, the finance charge is the sum of the products. If the daily periodic rate is multiplied by the sums of all the daily balances, the result is the finance charge. The *average daily balance* is the sum of the daily balances divided by the number of days in the billing cycle. The periodic rate is then multiplied by the average balance to determine the finance charge. However, if the periodic rate is a daily one, the product of the rate times the average balance is multiplied by the number of days in the cycle.

Notwithstanding the above, banks have several ways of calculating the balance on which the finance charge is computed. The examiner should be able, by reading the bank's explanation, to calculate the balance on which the finance charge is computed. Any inability to understand that explanation should be discussed with management, reminding them of Regulation Z's requirement that disclosures be clear and meaningful.

The regulation describes the manner of disclosure for the method of computing the balance on which the finance charge is calculated. There are two general requirements: (1) *The explanation must be clear, conspicuous, and in meaningful sequence;* and (2) *The fact that the bank imposes a finance charge without first deducting payments and credits made during the billing cycle must be disclosed.*

If the bank uses the *daily balance method* and applies a daily periodic rate, disclosure may be stated as:

- A balance for each day in the billing cycle. The daily periodic rate is multiplied by the balance on each day and the sum of the products is the finance charge; I 226.703
- A balance for each day in the billing cycle on which the balance in the account changes. The finance charge is figured the same as above, but the statement shows the balance only for those days on which the balance changed; or
- The sum of the daily balances during the billing cycle. The balance on which the finance charge is computed is the sum of all the daily balances in the billing cycle. The daily periodic rate is multiplied by that balance to determine the finance charge.

If the average daily balances are stated, however, the bank must include somewhere in the statement wording to the effect that the finance charge is or may be determined by multiplying each of the average daily balances by the number of days in the billing cycle, then multiplying each of the products by the applicable daily periodic rates, and adding those products.

In explaining the method used to find the balance on which the finance charge is computed, it is not necessary to show the method the bank uses to allocate payments or credits. That information may be disclosed as additional information, but it must not mislead or confuse the consumer or contradict, obscure or detract attention from required information.

Two or More Periodic Rates

Some banks may employ more than one periodic rate in computing the finance charge. For example, one rate may apply to balances up to a certain amount and another rate, to balances over that amount. If two or more periodic rates apply, the bank must disclose all rates and the conditions under which each applies. Also, the range of balances to which each rate applies must be disclosed. It is not necessary, however, to break the finance charge into separate components based on the different rates. I 226.701

If two or more daily periodic rates are imposed, the sum of the daily balances may not be used. Disclosure of the balances as either a daily balance or as two or more average daily balances is acceptable.

Annual Percentage Rate

Computation of the Annual Percentage Rate depends on three basic factors:

- The method used to calculate the balance on which finance charge is computed.
- Whether one, two or more periodic rates apply.
- Whether minimum finance charges or separate transaction charges are imposed.

(Note: Some banks impose minimum finance charges. Those charges may be ignored in figuring the Annual Percentage Rate, if the minimum charge plus all other charges imposed during the billing cycle do not exceed 50 cents. In such instances, the Annual Percentage Rate is found by multiplying the periodic rate by the number of billing cycles in the year. 226.5(a)(3) If the minimum charge plus all other charges exceed 50 cents, the quotient method (explained below) must be used to disclose the Annual Percentage Rate. Usually, separate transaction charges are assessed for certain transactions, such as cash advances. Methods for computing the Annual Percentage Rate depend on whether the previous balance or average daily balance method is used to calculate the balance on which the finance charge is computed. 226.5(a) (Footnote) Regulation Z provides illustrations of Annual Percentage Rate computations when a separate transaction charge is imposed.)

Open-End Credit
Examination Objectives

1. To verify the accuracy of the balance upon which the finance charge is computed, the Annual Percentage Rate and the periodic rate, and that they are properly disclosed and located. (A minimum of two consecutive statements are required.)
2. To determine the adequacy of policies, practices and procedures regarding open-end credit.
3. To determine if bank officers and employees are operating in conformance with established guidelines.

Exhibit 8

Mr. Chairman and members of this commettee:

My name is Joe Taylor.

I am President of T & W Chevrolet and Northern Leasing Co. of Missoula, and I am also a member of the State Banking Board.

It is my purpose to point out the inadequacy of the current interest usury limits that are now imposed on this state's auto dealers and financial institutions, which in turn restricts the availability of credit to the consumer.

The present ceilings are totally unrealistic in view of today's interest rates. Financial institutions and dealers cannot long carry this burden without restricting desired credit to the consumer.

A middle of the road approach must be made to solve this problem which means a substancial increase in the 12.68 and 12.83 rates that are now the new car ceilings. However I might point out that too high an increase would substantially reduce new car sales as it has in the case of leasing companies where the extre-mly high and uncontroled interest rate has resulted in loss of sales and the closeure of most of the state's leasing operations, our town alone has lost 93 Leasing, Mission Leasing, and Circle L Leasing. The results of which have denied the Montana consumer his choice of leasing or purchase of a vehicle. Our franchise as well as many others could experience the fate of the leasing companies.

I personally am not in favor of a floating rate as it would further accentuate the feast or famine that our industry is so prone to.

It is my feelings that consumer credit interest rates have to provide a reasonable return to the financial institutions, but at the same time must be stable in order to avoid further sales peaks and valleys that plague our industry.

Our leasing experience has shown that when the interest rates reach 10%, simple interest sales are severely curtailed, thus compounding our financial position.

I am merely stating the need for substancial relief, but not to the extent of severly restricting the new car dealers sales.

A ceiling limit of 10% on new and late models with 12% on older units in place of the current 7%, 9%, and 11% would be more acceptable than a floating rate structure, the percentages mentioned are on an add on basis.

Mr. Chairman and members of this committee, I thank you for your attention. I will be happy to answer any questions you may have on franchising or lease operators.

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House Bill No. 239

J. C. Penney and Company, In fiscal year 1979, which ended on January 26, 1980, J. C. Penney Company lost $57,000,000 (57 million dollars) on its revolving charge system.

This is the amount by which the Penney Company reported that the cost of its credit operations exceeded its finance charge income.

The Penney figures are typical of large retail operations.

This includes Wards, Sears, Woolworth, K mart, etc., as well as many of our local much smaller operations.

The smaller local operations, even though we are not talking about losses of millions of dollars, are even more hard pressed. They can not borrow at as low a rate as the much larger operations and their losses from their credit operations cannot be off-set as easily by the volume of sales and profits therefrom.

****

No one can borrow at 21% or more and lend this money out at 18% and break even, let alone make money.

It results in having to create a larger margin of profit on the cash sales to off-set the losses incurred on the credit sales. This requires the cash customer to pay more to subsidize the purchases made by the credit customer.

****

Sears was forced to close its store in Butte in 1980 and go back to just a catalogue store operation, due, at least in part, to the losses caused by credit operations.

Many businesses are in that same danger right now.

I would hate to see us wait until they are pushed back into a corner like Chrysler has been before any corrective actions are taken.

****

If current trends are allowed to continue without any relief, many of the retail operations are going to stop allowing credit purchases and the customer will have to finance through finance companies, (regulated lenders).

Credit purchasing is a big part of the American way of life. Without the ability to purchase on credit it would be even more difficult for young couples to get started.

How can we justify limiting what retailers can charge as interest rates when we eliminate interest rate ceilings for those regulated lenders?

The fixing of a maximum rate is, in fact, establishing the prevailing rate. To say that it is lawful to charge up to ______% will result in the charging of that rate whether the rate set was intended to be a maximum or not.

The elimination of ceilings allows the market place, competition, the American Free Enterprise System, etc. to work, and it will work to the benefit of all concerned. This is tried, tested, and proven, time and time again.

****

I am concerned with the responsibility that this committee is taking upon itself. . . We (the Bankers, Auto dealers, implement dealers, mobile home dealers, regulated lenders, etc.) all got together and with all concerned in unanimous concurrence, decided that the introduction and support of House Bills 238 and 239 would be in the best interests of all of the citizens of the State of Montana. Many of the entities involved were and are vigorous competitors, BUT WE CAN AND DO RECOGNIZE EACH OTHERS PROBLEMS, and this was taken into consideration in our decision to pursue our original position to support <u>both</u> House Bills 238 and 239.

To eliminate usury/ceilings for some entities and not for the other entities facing the same problems would be creating unfair competition in the market place and be discrimination of the worst possible type in the economic area.

****

I do not believe there will be many abuses. I admit there may be some, but no more caused by House Bill 239 than by any others under consideration.

If this committee is concerned that the Federal Truth in Lending requirements may not apply, H.B. 239 could be amended to require such disclosure or even a special note and/or disclosure any time the rate charged is in excess of ________%.

If there is a concern with regard to Credit Card companies abuse of removed ceilings, House Bill 239 could be amended to apply to only credit grantors wherein the same entity that sells the product suffers the consequences of the financing and finances the product sold itself.

This is discriminatory too, but at least it doesn't discriminate against the retailer.

****

Due to the fact that the bulk of purchases of priced-reduced sale items are made on credit, major chain companies have been having special price discount sales more frequently in areas, or states, where they aren't limited to the extent that they lose money on credit sales. Thus, once again, such interest rate limitations are depriving Montana citizens of full advantage of the free competitive market place.

NAME ______________________________ BILL No. __________

ADDRESS ______________________________ DATE __________

WHOM DO YOU REPRESENT ______________________________

SUPPORT __________ OPPOSE __________ AMEND __________

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME Emil Eckhardt BILL No. 238/239/24

ADDRESS Box 910 Bzn MT. DATE

WHOM DO YOU REPRESENT 1st Security Bank

SUPPORT ✓ OPPOSE AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME [illegible] BILL No. [illegible]

ADDRESS [illegible] Blue Sky [illegible] DATE [illegible]

WHOM DO YOU REPRESENT [illegible]

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME Aris Ann Tobin BILL No. [illegible]

ADDRESS Helena DATE

WHOM DO YOU REPRESENT Mont [illegible]

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME Anne Myhre BILL No. 238 & 23?

ADDRESS Glasgow DATE 1-23-81

WHOM DO YOU REPRESENT MLA

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

CS-34

NAME Merrill A. Kovatch BILL No. 238, 239, 24

ADDRESS Box 1297 Conrad DATE 1-28-81

WHOM DO YOU REPRESENT Farmers State Bank

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

n CS-34

NAME Ken Hoovestol BILL No. H.B. 239

ADDRESS Great Falls DATE 1/23

WHOM DO YOU REPRESENT MT. Snowmobile Dealers Assn.

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Edmund F. Sheehy, Jr. BILL No. [illegible]

ADDRESS 2031 11th Ave. [illegible] DATE [illegible]

WHOM DO YOU REPRESENT [illegible]

SUPPORT [illegible] OPPOSE ______ AMEND ______

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME [illegible] BILL No. [illegible]

ADDRESS 1501 Cedar DATE [illegible]

WHOM DO YOU REPRESENT [illegible]

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME [illegible] BILL No. [illegible]

ADDRESS [illegible] DATE [illegible]

WHOM DO YOU REPRESENT Self

SUPPORT X OPPOSE ____ AMEND ____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME M. C. Warden BILL No. 238-239

ADDRESS P.O. Box 9061 DATE

WHOM DO YOU REPRESENT First Bank Western Montana Missoula

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

CS-34

NAME Stanley R. Hill BILL No. ~~238~~ 239 243

ADDRESS B4 20007 DATE 1-23-81

WHOM DO YOU REPRESENT First Bank - West Billings

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Kent Kleinkopf BILL No. HB 238 + 239

ADDRESS 3685 Country Club DATE 1-23-81

WHOM DO YOU REPRESENT Montana Holding Companies

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME Ben Havdahl BILL No. ____________

ADDRESS Box 1 DATE [illegible]

WHOM DO YOU REPRESENT [illegible]

SUPPORT X OPPOSE ____________ AMEND ____________

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

CS-34

NAME Thor S Hauge BILL No. HB 237

ADDRESS 3645 10th Ave S Great F DATE 1/23

WHOM DO YOU REPRESENT Mont Marine Trade Ass

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME William L. Cole BILL No. [illegible]

ADDRESS 1415 Riverview Ave. Great Falls DATE 1/23/81

WHOM DO YOU REPRESENT Mills Kenworth, Inc.

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME [illegible] BILL No. [illegible]

ADDRESS [illegible] DATE [illegible]

WHOM DO YOU REPRESENT [illegible]

SUPPORT [illegible] OPPOSE ______ AMEND ______

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81