

SENATE BILL NO. 249

INTRODUCED BY TOWE, FABREGA

IN THE SENATE

January 21, 1983	Introduced and referred to Committee on Business and Industry.
February 1, 1983	Committee recommend bill do not pass. Report adopted. Ayes, 42; Noes, 4.
February 2, 1983	On motion Senate reconsider its action taken on February 1, 1983; and ordered printed and placed on second reading. Motion adopted.
February 3, 1983	Bill printed and placed on members' desks.
February 5, 1983	Second reading, do pass as amended.
February 7, 1983	Correctly engrossed.
February 8, 1983	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

February 9, 1983	Introduced and referred to Committee on Business and Industry.
March 21, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 22, 1983	Second reading, concurred in.
March 23, 1983	Third reading, concurred in.

IN THE SENATE

March 24, 1983

Returned to Senate.

April 6, 1983

Second reading, amendments
concurred in.

April 7, 1983

Third reading, amendments
concurred in. Ayes, 46;
Noes, 4.

Sent to enrolling.

Reported correctly enrolled.

SENATE BILL NO. 249

INTRODUCED BY Sen. F. Lange

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING USURY LIMITS; ALLOWING THE DEPARTMENT OF COMMERCE TO ADJUST RATES UPWARD DUE TO RAISES IN THE PRIME INTEREST RATE; AMENDING SECTIONS 31-1-107, 31-1-241, 31-1-243, 31-1-501, 32-1-436, AND 32-3-601, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 31-1-107, MCA, is amended to read:

"31-1-107. (Revived July 1, 1983) Interest rate allowed by agreement. (1) ~~On amounts up to \$150,000, parties~~ Parties may agree in writing for the payment of any rate of interest not more than ~~10%~~ 20% per annum ~~or more than 4 percentage points in excess of the discount rate on 90-day commercial paper in effect at the federal reserve bank in the ninth federal reserve district, whichever is greater,~~ and such interest shall be allowed according to the terms of the agreement.

~~(2) On amounts exceeding \$150,000 and up to \$300,000, parties may agree in writing for the payment of any rate of interest not more than 10% per annum or more than 5 percentage points in excess of the discount rate on 90-day~~

~~commercial paper in effect at the federal reserve bank in the ninth federal reserve district, whichever is greater, and such interest shall be allowed according to the terms of the agreement.~~

~~(3) On amounts exceeding \$300,000, parties may agree in writing to the payment of any rate of interest, without limitation, and such interest shall be allowed according to the terms of the agreement.~~

(2) The department of commerce may adjust the percentage rate in subsection (1) to reflect an amount not more than 2 percentage points above the prevailing prime rate of interest used by banks throughout the United States, but may not lower the amount below 20% per annum. The department may make this adjustment only once every 120 days. The department shall adjust the rate by rule.

(3) A loan that is not usurious when made is lawful for the duration of the loan, provided the loan agreement is not substantially changed. This subsection does not apply to loan renewals.

Section 2. Section 31-1-241, MCA, is amended to read:

"31-1-241. (Effective July 1, 1983) Finance charge limitation. (1) Notwithstanding the provisions of any other law, the finance charge included in a retail installment contract shall not exceed the rate set pursuant to 31-1-107, following schedule:

1 ~~(a) as to motor vehicles:~~
2 ~~(i) class 1 any new motor vehicle designated by the~~
3 ~~manufacturer by a year model not earlier than the year in~~
4 ~~which the sale is made, \$7 per \$100 per year;~~
5 ~~(ii) class 2 any new motor vehicle not in class 1 and~~
6 ~~any used motor vehicle designated by the manufacturer by a~~
7 ~~year model of the same or not more than 2 years prior to the~~
8 ~~year in which the sale is made, \$9 per \$100 per year;~~
9 ~~(iii) class 3 any used motor vehicle not in class 2~~
10 ~~and designated by the manufacturer by a year model more than~~
11 ~~2 years prior to the year in which the sale is made, \$11 per~~
12 ~~\$100 per year;~~
13 ~~(b) as to any industrial or construction equipment~~
14 ~~primarily designed for or used in construction, logging,~~
15 ~~mining, or other industrial business, the price of which is~~
16 ~~over \$5,000, \$9 per \$100 per year. This subsection shall not~~
17 ~~apply to agricultural equipment;~~
18 ~~(c) as to any manufactured structure or recreational~~
19 ~~vehicle, \$9 per \$100 per year;~~
20 ~~(d) as to services and goods other than as provided~~
21 ~~under subsections (1)(a), (1)(b), and (1)(c) above:~~
22 ~~(i) on so much of the principal balance as does not~~
23 ~~exceed \$300, \$11 per \$100 per year;~~
24 ~~(ii) if the principal balance exceeds \$300 but is less~~
25 ~~than \$1,000, \$9 per \$100 per year on that portion over \$300;~~

1 ~~(iii) if the principal balance exceeds \$1,000, \$7 per~~
2 ~~\$100 per year on that portion over \$1,000.~~
3 (2) Such finance charge shall be computed on the
4 principal balance as determined under 31-1-231(5) on
5 contracts payable in successive monthly payments
6 substantially equal in amount from the date of the contract
7 until the maturity of the final installment, notwithstanding
8 that the total time balance thereof is required to be paid
9 in installments. A minimum finance charge of \$20 may be
10 charged on any retail installment contract.
11 (3) When a retail installment contract provides for
12 payment other than in equal successive monthly installments,
13 the finance charge may be a rate which will provide the same
14 yield as is permitted on monthly payment contracts under
15 subsections (1) and (2) hereof, having due regard for the
16 schedule of payments in the contract.
17 (4) Notwithstanding the provisions of any other law, a
18 retail charge account agreement may provide for and the
19 seller or holder may charge, collect, and receive a finance
20 charge as specified herein for the privilege of paying in
21 installments thereunder. The finance charge may be computed
22 from month to month (which need not be a calendar month) or
23 other regular billing cycle period by applying a rate not to
24 exceed ~~1-1/2%~~ for each such monthly period to an amount (not
25 including any unpaid finance charge) the rate set pursuant

1 to ~~31-1-107~~ and by using the ending balance of the account
2 as of the last day of the billing cycle less the amount of
3 purchases charged to the account during that billing cycle.

4 (a) A seller may change the terms of a revolving
5 charge account whether or not the change is authorized by
6 prior agreement. The seller shall give the buyer written
7 notice of any change in the two billing cycles prior to the
8 effective date of the change.

9 (b) If the retail seller increases his finance charge
10 on a retail charge account agreement within the permitted
11 ceiling amount, then such increased rate may only be applied
12 to the balance consisting of purchases on other charges
13 incurred on or after the effective date of the increase.

14 (c) For purposes of determining the balance to which
15 the increased rate applies, all payments may be considered
16 to be applied to the balance existing prior to the change in
17 rate until that balance is paid in full.

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

22 Section 3. Section 31-1-243, MCA, is amended to read:
23 "31-1-243. (Revived, July 1, 1983) Refinancing retail
24 installment contract. The holder of a contract, upon request
25 by the buyer, may extend the scheduled due date of all or

1 any part of any installment or installments or defer payment
2 or payments or renew or restate the unpaid time balance of
3 such contract, the amount of the installments, and the time
4 schedule therefor and may collect for such extension,
5 deferment, renewal, or restatement a refinance charge. The
6 holder may compute the refinance charge on the unpaid time
7 balance to be extended, deferred, renewed, or restated by
8 adding to such unpaid time balance the cost for any
9 insurance and other benefits incidental to the refinancing
10 plus any accrued delinquency and collection charges, after
11 deducting any refund which may be due the buyer as for a
12 prepayment pursuant to 31-1-242 at the rate of the finance
13 charge specified in 31-1-241(1) ~~and by reclassifying in the~~
14 ~~case of motor vehicles by its then year model for the term~~
15 ~~of the refinancing agreement but otherwise subject to the~~
16 ~~provisions of this part governing computation of the~~
17 ~~original finance charge.~~ The provisions of this part
18 relating to minimum finance charges under 31-1-241(2) shall
19 not apply in calculating refinance charges on the contract
20 extended, deferred, renewed, or restated. If all unpaid
21 installments are deferred for not more than 2 months, the
22 holder may at his election charge and collect for such
23 deferment an amount equal to the difference between the
24 refund required for prepayment in full under 31-1-242 as of
25 the scheduled due date of the first deferred installment and

the refund required for prepayment in full as of 1 month prior to said date, times the number of months in which no scheduled payment is made."

Section 4. Section 31-1-501, MCA, is amended to read:

"31-1-501. Late payment charges — accounts receivable for merchandise sold at retail. (1) ~~Notwithstanding 31-1-106 or 31-1-107, a~~ A person who sells goods, as defined in 31-1-202, at retail to a retail buyer who promises to pay for such goods upon presentation of the bill therefor, may charge and collect a late payment charge not greater than ~~1-1/2% per month~~ the rate set pursuant to 31-1-107 on all money due on all accounts from 30 days after the date on which the obligation of the buyer to pay is incurred.

(2) The late payment charge provided in this section may be charged only if at the time the obligation was incurred the seller did not intend to extend any credit beyond 30 days and any late payment of the obligation was unintended.

(3) The provisions of this section do not apply to money due for intangible services, for services regulated by the public service commission, for real property, for health care services, or for retail installment sales contracts or retail charge account agreements regulated under Title 31, chapter 1, part 2."

Section 5. Section 32-1-436, MCA, is amended to read:

"32-1-436. (Suspended until July 1, 1983) Interest not to exceed lawful rate. (1) No bank or savings and loan association shall demand or receive for loans or discounts a rate of interest exceeding that allowed by law, excepting that it shall be lawful for any bank to receive interest in advance according to the ordinary usages of banking institutions.

~~(2) On loans to be repaid in one or more deferred installments, other than loans for purchase of real estate, a bank or savings and loan association may charge not to exceed the following schedules:~~

~~(a) on so much of the principal balance as does not exceed \$300, \$11 per \$100 per year;~~

~~(b) if the principal balance exceeds \$300 but is less than \$1,000, \$9 per \$100 per year on that portion over \$300;~~

~~(c) if the principal balance exceeds \$1,000, \$7 per \$100 per year on that portion over \$1,000.~~

~~(3)~~ (2) Such charges shall be computed on the principal balance on contracts payable in successive monthly payments substantially equal in amount from the date of the contract until the maturity of the final installment, notwithstanding that the total balance thereof is required to be paid in installments.

~~(4)~~ (3) A minimum charge of \$20 may be made with respect to any installment loan made by a bank or savings

1 and loan association.

2 (5)(4) When an installment loan contract provides for
3 payment other than in equal successive monthly installments,
4 the charge may be at a rate which will provide the same
5 yield as is permitted monthly payment contracts, having due
6 regard for the schedule of payments in the contract."

7 Section 6. Section 32-3-601, MCA, is amended to read:

8 "32-3-601. (Revived July 1, 1983) Loans — purposes,
9 terms, and interest rate. A credit union may loan to members
10 for such purpose and upon such security and terms as the
11 credit committee, credit manager, or loan officer approves
12 at rates of interest not exceeding ~~1-1/4% per month on the~~
13 ~~unpaid monthly balances~~ the rate set pursuant to 31-1-107."

14 NEW SECTION. Section 7. Severability. If a part of
15 this act is invalid, all valid parts that are severable from
16 the invalid part remain in effect. If a part of this act is
17 invalid in one or more of its applications, the part remains
18 in effect in all valid applications that are severable from
19 the invalid applications.

20 NEW SECTION. Section 8. Effective date. This act is
21 effective July 1, 1983.

-End-

Committee
on Business and Industry

recommend do not pass
Objection Raised to
Adverse Committee Report

SENATE BILL NO. 249

INTRODUCED BY Sen. F. F. F.

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING USURY LIMITS; ALLOWING THE DEPARTMENT OF COMMERCE TO ADJUST RATES UPWARD DUE TO RAISES IN THE PRIME INTEREST RATE; AMENDING SECTIONS 31-1-107, 31-1-241, 31-1-243, 31-1-501, 32-1-436, AND 32-3-601, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 31-1-107, MCA, is amended to read:

"31-1-107. (Revived July 1, 1983) Interest rate allowed by agreement. (1) ~~On amounts up to \$150,000, parties~~ Parties may agree in writing for the payment of any rate of interest not more than ~~10%~~ 20% per annum ~~or more than 4 percentage points in excess of the discount rate on 90-day commercial paper in effect at the federal reserve bank in the ninth federal reserve district, whichever is greater,~~ and such interest shall be allowed according to the terms of the agreement.

~~(2) On amounts exceeding \$150,000 and up to \$300,000, parties may agree in writing for the payment of any rate of interest not more than 10% per annum or more than 5 percentage points in excess of the discount rate on 90-day~~

~~commercial paper in effect at the federal reserve bank in the ninth federal reserve district, whichever is greater, and such interest shall be allowed according to the terms of the agreement.~~

~~(3) On amounts exceeding \$300,000, parties may agree in writing to the payment of any rate of interest without limitation, and such interest shall be allowed according to the terms of the agreement.~~

(2) The department of commerce may adjust the percentage rate in subsection (1) to reflect an amount not more than 2 percentage points above the prevailing prime rate of interest used by banks throughout the United States, but may not lower the amount below 20% per annum. The department may make this adjustment only once every 120 days. The department shall adjust the rate by rule.

(3) A loan that is not usurious when made is lawful for the duration of the loan, provided the loan agreement is not substantially changed. This subsection does not apply to loan renewals."

Section 2. Section 31-1-241, MCA, is amended to read:

"31-1-241. (Effective July 1, 1983) Finance charge limitation. (1) Notwithstanding the provisions of any other law, the finance charge included in a retail installment contract shall not exceed the rate set pursuant to 31-1-107. following schedule:

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1 ~~{a)--as-to-motor-vehicles+~~
 2 ~~{i)--class-1-any-new-motor-vehicle-designated-by-the~~
 3 ~~manufacturer-by-a-year-model-not-earlier-than-the-year-in~~
 4 ~~which-the-sale-is-made,-\$7-per-\$100-per-year;~~
 5 ~~{ii)--class-2-any-new-motor-vehicle-not-in-class-1-and~~
 6 ~~any-used-motor-vehicle-designated-by-the-manufacturer-by-a~~
 7 ~~year-model-of-the-same-or-not-more-than-2-years-prior-to-the~~
 8 ~~year-in-which-the-sale-is-made,-\$9-per-\$100-per-year;~~
 9 ~~{iii)--class-3-any-used-motor-vehicle-not-in-class-2~~
 10 ~~and-designated-by-the-manufacturer-by-a-year-model-more-than~~
 11 ~~2-years-prior-to-the-year-in-which-the-sale-is-made,-\$11-per~~
 12 ~~\$100-per-year;~~
 13 ~~{b)--as-to-any-industrial-or-construction-equipment~~
 14 ~~primarily--designed--for--or--used-in-construction,-logging,~~
 15 ~~mining,-or-other-industrial-business,-the-price-of-which-is~~
 16 ~~over-\$5,000,-\$9-per-\$100-per-year.-This-subsection-shall-not~~
 17 ~~apply-to-agricultural-equipment;~~
 18 ~~{c)--as-to-any-manufactured-structure-or-recreational~~
 19 ~~vehicle,-\$9-per-\$100-per-year;~~
 20 ~~{d)--as-to-services-and-goods-other--than--as--provided~~
 21 ~~under-subsections-(1){a)-,(1){b)-,and-(1){c)-above;~~
 22 ~~{i)--on-so-much-of-the-principal-balance-as-does-not~~
 23 ~~exceed-\$300,-\$11-per-\$100-per-year;~~
 24 ~~{ii)--if-the-principal-balance-exceeds-\$300-but-is-less~~
 25 ~~than-\$1,000,-\$9-per-\$100-per-year-on-that-portion-over-\$300;~~

1 ~~{iii)--if-the-principal-balance-exceeds-\$1,000,-\$7-per~~
 2 ~~\$100-per-year-on-that-portion-over-\$1,000.~~
 3 (2) Such Finance charge shall be computed on the
 4 principal balance as determined under 31-1-231(5) on
 5 contracts payable in successive monthly payments
 6 substantially equal in amount from the date of the contract
 7 until the maturity of the final installment, notwithstanding
 8 that the total time balance thereof is required to be paid
 9 in installments. A minimum finance charge of \$20 may be
 10 charged on any retail installment contract.
 11 (3) When a retail installment contract provides for
 12 payment other than in equal successive monthly installments,
 13 the finance charge may be a rate which will provide the same
 14 yield as is permitted on monthly payment contracts under
 15 subsections (1) and (2) hereof, having due regard for the
 16 schedule of payments in the contract.
 17 (4) Notwithstanding the provisions of any other law, a
 18 retail charge account agreement may provide for and the
 19 seller or holder may charge, collect, and receive a finance
 20 charge as specified herein for the privilege of paying in
 21 installments thereunder. The finance charge may be computed
 22 from month to month (which need not be a calendar month) or
 23 other regular billing cycle period by applying a rate not to
 24 exceed ~~1-1/2%~~ for each such monthly period to an amount (not
 25 including any unpaid finance charge) the rate set pursuant

to 31-1-107 and by using 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.

(a) A seller may change the terms of a revolving charge account whether or not the change is authorized by prior agreement. The seller shall give the buyer written notice of any change in the two billing cycles prior to the effective date of the change.

(b) If the retail seller increases his finance charge on a retail charge account agreement within the permitted ceiling amount, then such increased rate may only be applied to the balance consisting of purchases on other charges incurred on or after the effective date of the increase.

(c) For purposes of determining the balance to which the increased rate applies, all payments may be considered to be applied to the balance existing prior to the change in rate until that balance is paid in full.

(5) 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."

Section 3. Section 31-1-243, MCA, is amended to read:

"31-1-243. (Revived, July 1, 1983) Refinancing retail installment contract. The holder of a contract, upon request by the buyer, may extend the scheduled due date of all or

any part of any installment or installments or defer payment or payments or renew or restate the unpaid time balance of such contract, the amount of the installments, and the time schedule therefor and may collect for such extension, deferment, renewal, or restatement a refinance charge. The holder may compute the refinance charge on the unpaid time balance to be extended, deferred, renewed, or restated by adding to such unpaid time balance the cost for any insurance and other benefits incidental to the refinancing plus any accrued delinquency and collection charges, after deducting any refund which may be due the buyer as for a prepayment pursuant to 31-1-242 at the rate of the finance charge specified in 31-1-241(1) ~~and by reclassifying in the case of motor vehicles by its then year model for the term of the refinancing agreement but otherwise subject to the provisions of this part governing computation of the original finance charge.~~ The provisions of this part relating to minimum finance charges under 31-1-241(2) shall not apply in calculating refinance charges on the contract extended, deferred, renewed, or restated. If all unpaid installments are deferred for not more than 2 months, the holder may at his election charge and collect for such deferment an amount equal to the difference between the refund required for prepayment in full under 31-1-242 as of the scheduled due date of the first deferred installment and

1 the refund required for prepayment in full as of 1 month
2 prior to said date, times the number of months in which no
3 scheduled payment is made."

4 Section 4. Section 31-1-501, MCA, is amended to read:
5 "31-1-501. Late payment charges -- accounts receivable
6 for merchandise sold at retail. (1) ~~Notwithstanding 31-1-106~~
7 ~~or 31-1-107, --~~ A person who sells goods, as defined in
8 31-1-202, at retail to a retail buyer who promises to pay
9 for such goods upon presentation of the bill therefor, may
10 charge and collect a late payment charge not greater than
11 ~~1-1/2% per month the rate set pursuant to 31-1-107~~ on all
12 money due on all accounts from 30 days after the date on
13 which the obligation of the buyer to pay is incurred.

14 (2) The late payment charge provided in this section
15 may be charged only if at the time the obligation was
16 incurred the seller did not intend to extend any credit
17 beyond 30 days and any late payment of the obligation was
18 unintended.

19 (3) The provisions of this section do not apply to
20 money due for intangible services, for services regulated by
21 the public service commission, for real property, for health
22 care services, or for retail installment sales contracts or
23 retail charge account agreements regulated under Title 31,
24 chapter 1, part 2."

25 Section 5. Section 32-1-436, MCA, is amended to read:

1 "32-1-436. (Suspended until July 1, 1983) Interest not
2 to exceed lawful rate. (1) No bank or savings and loan
3 association shall demand or receive for loans or discounts a
4 rate of interest exceeding that allowed by law, excepting
5 that it shall be lawful for any bank to receive interest in
6 advance according to the ordinary usages of banking
7 institutions.

8 ~~(2) On loans to be repaid in one or more deferred~~
9 ~~installments, other than loans for purchase of real estate,~~
10 ~~a bank or savings and loan association may charge not to~~
11 ~~exceed the following schedule:~~

12 ~~(a) on so much of the principal balance as does not~~
13 ~~exceed \$300, \$11 per \$100 per year;~~

14 ~~(b) if the principal balance exceeds \$300 but is less~~
15 ~~than \$1,000, \$9 per \$100 per year on that portion over \$300;~~

16 ~~(c) if the principal balance exceeds \$1,000, \$7 per~~
17 ~~\$100 per year on that portion over \$1,000.~~

18 ~~(3)(2)~~ Such charges shall be computed on the principal
19 balance on contracts payable in successive monthly payments
20 substantially equal in amount from the date of the contract
21 until the maturity of the final installment, notwithstanding
22 that the total balance thereof is required to be paid in
23 installments.

24 ~~(4)(3)~~ A minimum charge of \$20 may be made with
25 respect to any installment loan made by a bank or savings

1 and loan association.

2 ~~(5)(4)~~ When an installment loan contract provides for
3 payment other than in equal successive monthly installments,
4 the charge may be at a rate which will provide the same
5 yield as is permitted monthly payment contracts, having due
6 regard for the schedule of payments in the contract."

7 Section 6. Section 32-3-601, MCA, is amended to read:

8 "32-3-601. (Revived July 1, 1983) Loans -- purposes,
9 terms, and interest rate. A credit union may loan to members
10 for such purpose and upon such security and terms as the
11 credit committee, credit manager, or loan officer approves
12 at rates of interest not exceeding ~~1-1/4% per month on the~~
13 ~~unpaid monthly balances the rate set pursuant to 31-1-107."~~

14 NEW SECTION. Section 7. Severability. If a part of
15 this act is invalid, all valid parts that are severable from
16 the invalid part remain in effect. If a part of this act is
17 invalid in one or more of its applications, the part remains
18 in effect in all valid applications that are severable from
19 the invalid applications.

20 NEW SECTION. Section 8. Effective date. This act is
21 effective July 1, 1983.

-End-

SENATE BILL NO. 249

INTRODUCED BY TOWE, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING USURY LIMITS; ALLOWING THE DEPARTMENT OF COMMERCE TO ADJUST RATES UPWARD DUE TO RAISES IN THE PRIME PREVAILING INTEREST RATE USED BY REGULATED LENDERS; AMENDING SECTIONS SECTION 31-1-107, 31-1-241, 31-1-243, 31-1-501, 32-1-436, AND 32-3-601, MCA; AND PROVIDING AN EFFECTIVE DATE."

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"31-1-107. (Revived July 1, 1983) Interest rate allowed by agreement. (1) On amounts up to \$150,000, parties may agree in writing for the payment of any rate of interest not more than 10% 20% 10% per annum or more than 4 percentage points in excess of the discount rate on 90-day commercial paper in effect at the federal reserve bank in the ninth federal reserve district, whichever is greater, and such interest shall be allowed according to the terms of the agreement.

(2) On amounts exceeding \$150,000 and up to \$300,000, parties may agree in writing for the payment of any rate of interest not more than 10% per annum or more than 5 percentage points in excess of the discount rate on 90-day

commercial paper in effect at the federal reserve bank in the ninth federal reserve district, whichever is greater, and such interest shall be allowed according to the terms of the agreement.

(3) On amounts exceeding \$300,000, parties may agree in writing to the payment of any rate of interest without limitation, and such interest shall be allowed according to the terms of the agreement.

(2) The department of commerce may adjust the percentage rate in subsection (1) to reflect an amount not more than 2 percentage points above the AVERAGE prevailing prime rate of interest used by banks REGULATED LENDERS throughout the United States STATE OF MONTANA, but may not lower the amount below 20% 10% per annum. The department may make this adjustment only once every 120 days. The department shall adjust the rate by rule.

(3) A loan that is not usurious when made is lawful for the duration of the loan, provided the loan agreement is not substantially changed. This subsection does not apply to loan renewals."

Section 2. Section 31-1-241, MCA, is amended to read:

"31-1-241. (Effective July 1, 1983) Finance charge limitations--(1) Notwithstanding the provisions of any other law, the finance charge included in a retail installment contract shall not exceed the rate set pursuant to 31-1-107.

1 following schedule:

2 (a) as to motor vehicles:

3 (i) class 1--any new motor vehicle designated by the

4 manufacturer by a year model not earlier than the year in

5 which the sale is made--\$7-per-\$100-per-year;

6 (ii) class 2--any new motor vehicle not in class 1 and

7 any used motor vehicle designated by the manufacturer by a

8 year model of the same or not more than 2 years prior to the

9 year in which the sale is made--\$9-per-\$100-per-year;

10 (iii) class 3--any used motor vehicle not in class 2

11 and designated by the manufacturer by a year model more than

12 2 years prior to the year in which the sale is made--\$11-per

13 \$100-per-year;

14 (b) as to any industrial or construction equipment

15 primarily designed for or used in construction, logging,

16 mining or other industrial business, the price of which is

17 over \$5000--\$2-per-\$100-per-year. This subsection shall not

18 apply to agricultural equipment.

19 (c) as to any manufactured structure or recreational

20 vehicle--\$9-per-\$100-per-year;

21 (d) as to services and goods other than as provided

22 under subsections (1)(a), (1)(b) and (1)(c) above:

23 (i) on so much of the principal balance as does not

24 exceed \$300--\$12-per-\$100-per-year;

25 (ii) if the principal balance exceeds \$300 but is less

1 than \$1000--\$9-per-\$100-per-year on that portion over \$300;

2 (iii) if the principal balance exceeds \$1000--\$7-per

3 \$100-per-year on that portion over \$1000.

4 (2) Such finance charge shall be computed on the

5 principal balance as determined under 31-1-231(5) on

6 contracts payable in successive monthly payments

7 substantially equal in amount from the date of the contract

8 until the maturity of the final installment notwithstanding

9 that the total time balance thereof is required to be paid

10 in installments. A minimum finance charge of \$20 may be

11 charged on any retail installment contract.

12 (3) When a retail installment contract provides for

13 payment other than in equal successive monthly installments,

14 the finance charge may be a rate which will provide the same

15 yield as is permitted on monthly payment contracts under

16 subsections (1) and (2) hereof having due regard for the

17 schedule of payments in the contract.

18 (4) Notwithstanding the provisions of any other law a

19 retail charge account agreement may provide for and the

20 seller or holder may charge, collect, and receive a finance

21 charge as specified herein for the privilege of paying in

22 installments thereunder. The finance charge may be computed

23 from month to month (which need not be a calendar month) or

24 other regular billing cycle period by applying a rate not to

25 exceed 1 1/2% for each such monthly period to an amount (not

1 including any unpaid finance charge) ~~the rate set pursuant~~
 2 ~~to 31-1-187~~ and by using the ending balance of the account
 3 as of the last day of the billing cycle less the amount of
 4 purchases charged to the account during that billing cycle
 5 (a) A seller may change the terms of a revolving
 6 charge account whether or not the change is authorized by
 7 prior agreement. The seller shall give the buyer written
 8 notice of any change in the two billing cycles prior to the
 9 effective date of the change.
 10 (b) If the retail seller increases his finance charge
 11 on a retail charge account agreement within the permitted
 12 ceiling amounts, then such increased rate may only be applied
 13 to the balance consisting of purchases on other charges
 14 incurred on or after the effective date of the increase.
 15 (c) For purposes of determining the balance to which
 16 the increased rate applies, all payments may be considered
 17 to be applied to the balance existing prior to the change in
 18 rate until that balance is paid in full.
 19 (5) If the finance charge so determined pursuant to
 20 (4) above for such monthly period is less than 50 cents, a
 21 maximum finance charge not in excess of 50 cents may be
 22 charged, received, and collected for such periods.
 23 Section 36 Section 31-1-243 MGA is amended to read:
 24 "31-1-243. (Revived; duty 1983) Refinancing retail
 25 installment contracts. The holder of a contract upon

1 request by the buyer may extend the scheduled due date of
 2 all or any part of any installment or installments or defer
 3 payment or payments or renew or restate the unpaid time
 4 balance of such contract, the amount of the installments,
 5 and the time schedule therefor and may collect for such
 6 extension, deferment, renewal or restatement a finance
 7 charge. The holder may compute the finance charge on the
 8 unpaid time balance to be extended, deferred, renewed, or
 9 restated by adding to such unpaid time balance the cost for
 10 any insurance and other benefits incidental to the
 11 refinancing plus any accrued delinquency and collection
 12 charges after deducting any refund which may be due the
 13 buyer as for a prepayment pursuant to 31-1-242 at the rate
 14 of the finance charge specified in 31-1-241(1) and by
 15 reclassifying in the case of motor vehicles by its then-year
 16 model for the term of the refinancing agreement but
 17 otherwise subject to the provisions of this part governing
 18 computation of the original finance charge. The provisions
 19 of this part relating to minimum finance charges under
 20 31-1-241(2) shall not apply in calculating finance charges
 21 on the contract extended, deferred, renewed, or restated, if
 22 all unpaid installments are deferred for not more than 2
 23 months, the holder may at his election charge and collect
 24 for such deferment an amount equal to the difference between
 25 the refund required for prepayment in full under 31-1-242 as

1 of--the--scheduled--due--date--of--the--first--deferred--installment
2 and--the--refund--required--for--prepayment--in--full--as--of--1--month
3 prior--to--said--date,--times--the--number--of--months--in--which--no
4 scheduled--payment--is--made."

5 Section--4s--Section--31-1-501s--MEAs--is--amended--to--read:
6 "31-1-501s--Late--payment--charges--accounts--receivable
7 for--merchandise--sold--at--retail--(1)--Notwithstanding
8 31-1-106--or--31-1-107,--a--person--who--sells--goods--as--defined
9 in--31-1-202,--at--retail--to--a--retail--buyer--who--promises--to--pay
10 for--such--goods--upon--presentation--of--the--bill--therefor,--may
11 charge--and--collect--a--late--payment--charge--not--greater--than
12 1-1/2%--per--month--the--rate--set--pursuant--to--31-1-107--on--all
13 money--due--on--all--accounts--from--30--days--after--the--date--on
14 which--the--obligation--of--the--buyer--to--pay--is--incurred."

15 (2)--The--late--payment--charge--provided--in--this--section
16 may--be--charged--only--if--at--the--time--the--obligation--was
17 incurred--the--seller--did--not--intend--to--extend--any--credit
18 beyond--30--days--and--any--late--payment--of--the--obligation--was
19 unintended."

20 (3)--The--provisions--of--this--section--do--not--apply--to
21 money--due--for--intangible--services,--for--services--regulated--by
22 the--public--service--commission,--for--real--property,--for--health
23 care--services,--or--for--retail--installment--sales--contracts--or
24 retail--charge--account--agreements--regulated--under--Title--31,
25 chapter--14--part--2."

1 Section--5s--Section--32-1-436s--MEAs--is--amended--to--read:
2 "32-1-436s--(Suspended--until--July--1,--1983)--Interest--not
3 to--exceed--lawful--rates--(1)--No--bank--or--savings--and--loan
4 association--shall--demand--or--receive--for--loans--or--discounts--a
5 rate--of--interest--exceeding--that--allowed--by--law,--excepting
6 that--it--shall--be--lawful--for--any--bank--to--receive--interest--in
7 advance--according--to--the--ordinary--usages--of--banking
8 institutions."

9 (2)--8n--loans--to--be--repaid--in--one--or--more--deferred
10 installments,--other--than--loans--for--purchase--of--real--estate,
11 a--bank--or--savings--and--loan--association--may--charge--not--to
12 exceed--the--following--schedules:

13 (a)--on--so--much--of--the--principal--balance--as--does--not
14 exceed--\$300,--\$11--per--\$100--per--year;

15 (b)--if--the--principal--balance--exceeds--\$300--but--is--less
16 than--\$1,000,--\$9--per--\$100--per--year--on--that--portion--over--\$300;

17 (c)--if--the--principal--balance--exceeds--\$1,000,--\$7--per
18 \$100--per--year--on--that--portion--over--\$1,000.

19 (3)(2)--Such--charges--shall--be--computed--on--the--principal
20 balance--on--contracts--payable--in--successive--monthly--payments
21 substantially--equal--in--amount--from--the--date--of--the--contract
22 until--the--maturity--of--the--final--installment,--notwithstanding
23 that--the--total--balance--thereof--is--required--to--be--paid--in
24 installments."

25 (4)(3)--A--minimum--charge--of--\$20--may--be--made--with

respect--to--only--installment--loan--made--by--a--bank--or--savings
and--loan--associations

(5)(4)--When--an--installment--loan--contract--provides--for
payment--other--than--in--equal--successive--monthly--installments,
the--charge--may--be--at--a--rate--which--will--provide--the--same
yield--as--its--permitted--monthly--payment--contracts--having--due
regard--for--the--schedule--of--payments--in--the--contracts."

Section--6--Section--32-3-601--NEA--is--amended--to--read:

"32-3-601--(Revived--July--1--1983)--loans--purpose,
terms--and--interest--rates--A--credit--union--may--loan--to
members--for--such--purpose--and--upon--such--security--and--terms--as
the--credit--committee--credit--manager--or--loan--officer
approves--at--rates--of--interest--not--exceeding--1-1/4%--per--month
on--the--unpaid--monthly--balances the--rate--set--out--in--the
21-1-181."

NEW--SECTION--Section--7--Severability--If--a--part--of
this--act--is--invalid--all--valid--parts--that--are--severable--from
the--invalid--part--remain--in--effect--If--a--part--of--this--act--is
invalid--in--one--or--more--of--its--applications--the--part--remains
in--effect--in--all--valid--applications--that--are--severable--from
the--invalid--applications

NEW--SECTION. Section 2. Effective date. This act is
effective July 1, 1983.

-End-

HOUSE BUSINESS & INDUSTRY COMMITTEE
AMENDMENTS TO SENATE BILL 249 - THIRD READING COPY COLOR BLUE
MARCH 16, 1983

1. Title, line 5

Following: "LIMITS;"

Strike: the remainder of line 5, line 6 in its entirety, and
line 7 through "LENDERS;"

2. Page 1, line 16

Strike: "10%"

Insert: "6 percentage points"

3. Page 1, line 19

Following: "**greater**"

Insert: "above the prime rate of major New York banks as published in the Wall Street Journal edition dated three business days prior to the execution of the agreement."

4. Page 2, line 9

Strike: lines 9 through 16 in their entirety

Renumber: subsequent subsection

SENATE BILL NO. 249

INTRODUCED BY TOME, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING USURY LIMITS; ALLOWING THE DEPARTMENT OF COMMERCE TO ADJUST RATES UPWARD DUE TO RAISES IN THE PRIME ~~PREVAILING~~ INTEREST RATE ~~USED BY REGULATED LENDERS~~; ESTABLISHING THE MAXIMUM INTEREST RATE AT 6 PERCENTAGE POINTS ABOVE THE NEW YORK PRIME RATE; AMENDING SECTIONS 31-1-107, 31-1-243, 31-1-243, 31-1-501, 32-1-436, AND 32-3-601, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 31-1-107, MCA, is amended to read:

"31-1-107. (Revived July 1, 1983) Interest rate allowed by agreement. (1) On amounts up to \$150,000, parties may agree in writing for the payment of any rate of interest not more than 10% ~~20% 10% 6 PERCENTAGE POINTS~~ per annum or more than 4 percentage points in excess of the discount rate on 90-day commercial paper in effect at the federal reserve bank in the ninth federal reserve district, whichever is greater ABOVE THE PRIME RATE OF MAJOR NEW YORK BANKS, AS PUBLISHED IN THE WALL STREET JOURNAL EDITION DATED 3 BUSINESS DAYS PRIOR TO THE EXECUTION OF THE AGREEMENT, and such interest shall be allowed according to the terms of the

agreement.

(2) On amounts exceeding \$150,000 and up to \$300,000, parties may agree in writing for the payment of any rate of interest not more than 10% per annum or more than 5 percentage points in excess of the discount rate on 90-day commercial paper in effect at the federal reserve bank in the ninth federal reserve district, whichever is greater, and such interest shall be allowed according to the terms of the agreement.

(3) On amounts exceeding \$300,000, parties may agree in writing to the payment of any rate of interest, without limitation, and such interest shall be allowed according to the terms of the agreement.

(4) The department of commerce may adjust the percentage rate in subsection (1) to reflect an amount not more than 2 percentage points above the AVERAGE prevailing prime rate of interest used by banks ~~REGULATED LENDERS~~ throughout the United States ~~STATE OF MONTANA~~ but may not lower the amount below 20% ~~10% per annum~~. The department may make this adjustment only once every 120 days. The department shall adjust the rate by rule.

(5) A loan that is not usurious when made is lawful for the duration of the loan, provided the loan agreement is not substantially changed. This subsection does not apply to loan renewals."

1 Section 2--Section--31-1-241v MEA--is amended to read:
 2 "31-1-241v--(Effective duty--1v--1983)--Finance--charge
 3 limitations--(1)--Notwithstanding the provisions of any other
 4 law--the--finance--charge--included in a retail installment
 5 contract shall not exceed the ~~rate set pursuant to 31-1-101x~~
 6 following schedule:
 7 (a)--as to motor vehicles:
 8 (i)--class 1--any new motor vehicle designated by the
 9 manufacturer by a year model not earlier than the year in
 10 which the sale is made--\$7-per-\$100-per-year;
 11 (ii)--class 2--any new motor vehicle not in class 1--and
 12 any used motor vehicle designated by the manufacturer by a
 13 year model of the same or not more than 2 years prior to the
 14 year in which the sale is made--\$9-per-\$100-per-year;
 15 (iii)--class 3--any used motor vehicle not in class 2
 16 and designated by the manufacturer by a year model more than
 17 2 years prior to the year in which the sale is made--\$11-per
 18 \$100-per-year;
 19 (b)--as to any industrial or construction equipment
 20 primarily designed for or used in construction--logging
 21 mining--or other industrial business--the price of which is
 22 over \$5,000--\$9-per-\$100-per-year--this subsection shall not
 23 apply to agricultural equipments
 24 (c)--as to any manufactured structure or recreational
 25 vehicle--\$9-per-\$100-per-year;

1 (d)--as to services and goods other than as provided
 2 under subsections (1)(a)-(1)(b) and (1)(c) above:
 3 (i)--on so much of the principal balance as does not
 4 exceed \$300--\$11-per-\$100-per-year;
 5 (ii)--if the principal balance exceeds \$300 but is less
 6 than \$1,000--\$9-per-\$100-per-year on that portion over \$300;
 7 (iii)--if the principal balance exceeds \$1,000--\$7-per
 8 \$100-per-year on that portion over \$1,000.
 9 (2)--Such finance charge shall be computed on the
 10 principal balance as determined under 31-1-231(5)--on
 11 contracts payable in successive monthly payments
 12 substantially equal in amount from the date of the contract
 13 until the maturity of the final installment notwithstanding
 14 that the total time balance thereof is required to be paid
 15 in installments--A minimum finance charge of \$20 may be
 16 charged on any retail installment contract.
 17 (3)--When a retail installment contract provides for
 18 payment other than in equal successive monthly installments
 19 the finance charge may be a rate which will provide the same
 20 yield as is permitted on monthly payment contracts under
 21 subsections (1) and (2) hereof having due regard for the
 22 schedule of payments in the contract.
 23 (4)--Notwithstanding the provisions of any other law a
 24 retail charge account agreement may provide for and the
 25 seller or holder may charge collect and receive a finance

1 charge as specified herein for the privilege of paying in
 2 installments thereunder. The finance charge may be computed
 3 from month to month (which need not be a calendar month) or
 4 other regular billing cycle period by applying a rate not to
 5 exceed 1 1/2% for each such monthly period to an amount (not
 6 including any unpaid finance charge) ~~the rate set pursuant~~
 7 ~~to 31-1-181 and by using the ending balance of the account~~
 8 ~~as of the last day of the billing cycle less the amount of~~
 9 ~~purchases charged to the account during that billing cycle.~~
 10 (a) A seller may change the terms of a revolving
 11 charge account whether or not the change is authorized by
 12 prior agreement. The seller shall give the buyer written
 13 notice of any change in the two billing cycles prior to the
 14 effective date of the change.
 15 (b) If the retail seller increases his finance charge
 16 on a retail charge account agreement within the permitted
 17 ceiling amount, then such increased rate may only be applied
 18 to the balance consisting of purchases on other charges
 19 incurred on or after the effective date of the increase.
 20 (c) For purposes of determining the balance to which
 21 the increased rate applies, all payments may be considered
 22 to be applied to the balance existing prior to the change in
 23 rate until that balance is paid in full.
 24 (5) If the finance charge so determined pursuant to
 25 (4) above for such monthly period is less than 50 cents, a

1 maximum finance charge not in excess of 50 cents may be
 2 charged, received, and collected for such periods.
 3 Section 3, Section 31-1-243, MEA, is amended to read
 4 "31-1-243. (Revived) duty 1983) Refinancing--retail
 5 installment contracts--The holder of a contract upon
 6 request by the buyer may extend the scheduled due date of
 7 all or any part of any installment or installments or defer
 8 payment or payments or renew or restate the unpaid time
 9 balance of such contract, the amount of the installments
 10 and the time schedule therefor and may collect for such
 11 extension, deferral, renewal or restatement a refinance
 12 charge. The holder may compute the refinance charge on the
 13 unpaid time balance to be extended, deferred, renewed or
 14 restated by adding to such unpaid time balance the cost for
 15 any insurance and other benefits incidental to the
 16 refinancing plus any accrued delinquency and collection
 17 charges after deducting any refund which may be due the
 18 buyer as for a prepayment pursuant to 31-1-242 at the rate
 19 of the finance charge specified in 31-1-241(1) and by
 20 reclassifying in the case of motor vehicles by its then year
 21 model for the term of the refinancing agreement but
 22 otherwise subject to the provisions of this part governing
 23 computation of the original finance charges. The provisions
 24 of this part relating to minimum finance charges under
 25 31-1-241(2) shall not apply in calculating refinance charges

1 on the contract extended, deferred, renewed, or restated, if
 2 all unpaid installments are deferred for not more than 2
 3 months, the holder may at his election charge and collect
 4 for such deferment an amount equal to the difference between
 5 the refund required for prepayment in full under 31-1-242 as
 6 of the scheduled due date of the first deferred installment
 7 and the refund required for prepayment in full as of 1 month
 8 prior to said date, times the number of months in which no
 9 scheduled payment is made."

10 Section 4. Section 31-1-501, MCA, is amended to read
 11 "31-1-501. Late payment charges. Accounts receivable
 12 for merchandise sold at retail. (1) Notwithstanding
 13 31-1-106 or 31-1-107, a person who sells goods as defined
 14 in 31-1-202 at retail to a retail buyer who promises to pay
 15 for such goods upon presentation of the bill, therefore, may
 16 charge and collect a late payment charge not greater than
 17 1 1/2% per month ~~the rate set pursuant to 31-1-107~~ on all
 18 money due on all accounts from 30 days after the date on
 19 which the obligation of the buyer to pay is incurred.

20 (2) The late payment charge provided in this section
 21 may be charged only if at the time the obligation was
 22 incurred the seller did not intend to extend any credit
 23 beyond 30 days and any late payment of the obligation was
 24 unintended.

25 (3) The provisions of this section do not apply to

1 money due for intangible services, for services regulated by
 2 the public service commission, for real property, for health
 3 care services, or for retail installment sales contracts or
 4 retail charge account agreements regulated under Title 31,
 5 chapter 17, part 2."

6 Section 5. Section 32-1-436, MCA, is amended to read
 7 "32-1-436. (Suspended until July 1, 1993) Interest not
 8 to exceed lawful rates. (1) No bank or savings and loan
 9 association shall demand or receive for loans or discounts a
 10 rate of interest exceeding that allowed by law, excepting
 11 that it shall be lawful for any bank to receive interest in
 12 advance according to the ordinary usages of banking
 13 institutions.

14 (2) On loans to be repaid in one or more deferred
 15 installments, other than loans for purchase of real estate
 16 a bank or savings and loan association may charge not to
 17 exceed the following schedules:

18 (a) on so much of the principal balance as does not
 19 exceed \$300, \$11 per \$100 per year;

20 (b) if the principal balance exceeds \$300 but is less
 21 than \$1,000, \$9 per \$100 per year on that portion over \$300;

22 (c) if the principal balance exceeds \$1,000, \$7 per
 23 \$100 per year on that portion over \$1,000.

24 (3) Such charges shall be computed on the principal
 25 balance on contracts payable in successive monthly payments.

substantially equal in amount from the date of the contract until the maturity of the final installment notwithstanding that the total balance thereof is required to be paid in installments.

(4) A minimum charge of \$20 may be made with respect to any installment loan made by a bank or savings and loan association.

(5) When an installment loan contract provides for payment other than in equal successive monthly installments the charge may be at a rate which will provide the same yield as is permitted monthly payment contracts having due regard for the schedule of payments in the contracts.

Section 6 of Section 32-3-601 may be amended to read:

"32-3-601 (Revived duty in 1983) Loans and purposes, terms and interest rates. A credit union may loan to members for such purpose and upon such security and terms as the credit committee, credit manager, or loan officer approves at rates of interest not exceeding 1 1/4% per month on the unpaid monthly balances. The rate set pursuant to 31-1-1210."

NEW SECTION. Section 7. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from

the invalid applications.

NEW SECTION. Section 2. Effective date. This act is effective July 1, 1983.

-End-