Senate

COMMERCE AND LABOR COMMITTEE

April 10, 1975

The meeting was called to order in Room #213 at 1:05 p.m., on Thursday, April 10, 1975, with Senator Gene Echols in the chair.

PRESENT: Senator Gene Echols
Senator Warren Monroe
Senator Margie Foote
Senator Richard Blakemore
Senator Richard Bryan
Senator William Raggio
Senator Gary Sheerin (1:35)

OTHERS PRESENT: See Exhibit "A"

S.B. 372: Exempts banks and certain loan associations from usury law.

Ray Knisley, testified in his own behalf. He stated in Southern Nevada there is an industry employing about 105 people who could not get money to finance his contracts. This was because the banks did not have the funds to do the financing. Mr. Knisley and three other people got together and using their own resources, and that of others, deposited the money in the bank. The bank then went ahead and made the loans. This kept some 80 people from being layed off. During this same time Mr. Knisley carried a large cash balance in one of the banks. He was solicited at various times to move the money to California. He was tempted to do so because of the higher interest rates, but did not do so. He stated the money was earned here and kept here. Mr. Knisley said that this law does not do any particular good. He said when he was a legislator, they thought they were protecting the borrower. Competition will protect the buyer. Mr. Knisley said all you were doing was drying up funds available in the state of Nevada to no particular end. This type of law puts the pressure on the public officials to take Nevada money outside of the state and put it elsewhere. Mr. Knisley stated that the surrounding states all have higher interest rates than are available in the State of Nevada. He stated that you are literally forcing public officers in charge of the state's funds to take Nevada money out and put it in other states because their obligation is to earn as much as they can.

Senator Blakemore asked if the increased interest rate proposed by California was due to the fact that there is no limit. Mr. Knisley said yes. Senator Blakemore said therefore they could pay more for your money and that puts us at a disadvantage here in the state of Nevada.

Senator Bryan said that S.B. 372 simply exempts banks and savings and loan associations from applicable usury statute of 12 percent. Senator Bryan asked Mr. Knisley what type' of economic dislocations he saw because banks and S&L's are not the only ones providing substantial amounts of capital for investments. Mr. Knisley said he thought the majority of commercial loans are supplied this way. Senator Bryan said what about the home building market. Mr. Knisley said when he was in that business they were supplied entirely by putting those associations and banks.

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Harley Harmon, President Nevada State Bank of State of Nevada, testified next. Mr. Harmon stated that this bill included only banks and savings and loan associations. He stated that he had no objection to any people or organization that is in the business of supplying money to the market being included in this bill and would have no objection to having that section of the bill amended to include those organizations. This would include mortgage bankers, credit unions, etc. At this time he passed out copies of an article written by a man who had studied usury. This will be labeled EXHIBIT B. Mr. Harmon stated that he would call Bill Kottinger to speak to the committee. Next would be Ken Sullivan, Executive Vice-President of Valley Bank in Las Vegas. He will speak about the cost of money. Next will be Mr. A. M. Smith, Chairman of the Board and Chief Executive Officer, of First National Bank.

Mr. Harmon stated that he knew that many people thought that by removing usury you are hurting the consumer. He said there was not one of them that wants to take advantage of the consumer and said they had their interests at heart more than anyone thought.

Bill Kottinger, Vice-President of Paine, Webber, Jackson and Curtis, members of the New York Stock Exchange, testified next. His written testimony is attached and will be labeled ATTACHMENT 1. Following his testimony, Senator Echols commented on the California and Utah Banks. Mr. Kottinger said that the banks in California and Utah are exempt from usury but the public is not. He stated that the banks are the lenders and the public is the depositer and the public is covered under the usury laws.

Kenneth J. Sullivan, Jr., Executive Vice-President, Valley Bank of Nevada, testified next. Mr. Sullivan stated that he had reviewed all the bills and pointed out that they needed some relief. He said they could not live with the ususry statutes as presently drawn. He said it was senseless for them to stay in the market when they have to pay more for the money than they can loan it out. Mr. Sullivan said they were forced to stay in the market last summer because they never, in his banking knowledge, thought they would ever reach the 12 percent. He said they felt they had a moral obligation to make the loans and take it on the chin. He discussed S.B. 439 briefly and said the fallacy was the terminology used. There is no such thing as federal reserve prime rate. He believed what they meant was the rediscount rate. He said that the federal government did pass a statute that provided for a period of three years that the banks could charge five percent over the rediscount rate of the federal reserve bank in that area on the 90 day commercial paper. Senator Bryan asked if he was saying the regulation preempted the state. Mr. Sullivan said it pre-empted for a three year period. He said the only reason he pointed this out was to demonstrate that the federal government is aware that something had to be done. He stated that he didn't think the usury statutes were a problem now but wanted to go on record as saying that in the next year we are going to be in a worse money crunch than we were last time.

Senator Raggio asked Mr. Sullivan to expound upon the federal law that was passed. Mr. Sullivan said that it was in effect until 1977 or until the state passed a new law. It is on everything except the single family real estate law. The rate right now is 6 and 3/4. Senator Raggio said when the rediscount rate was 8 percent it applied here because at that time you could charge 13 and 1/2 percent. Mr. Sullivan stated they never did because by the time the law was effective it was no longer necessary. Another problem is the rediscount rate traditionally has always followed the fed funds rate. Fed Funds is the day to day borrowing from one bank to another of the excess amount of funds they have on deposit. The way banks balance their books, fed funds are the same as borrowing from the federal reserve only you borrow from the bank instead of the federal reserve. Generally, there is no more than a half a point spread in that rate. Last July when the fed funds rate was 15 and 16 percent, the government had a rate of 8 and 1/2 Senator Raggio asked what the rate was now. Mr. Sullivan said it is presently 5 and 1/2 percent. Mr. Sullivan said his point was that when the rate was 8 and 1/2 and they were paying 15 and 16 percent for fed funds, you ask why didn't we go to the federal reserves. Mr. Sullivan said the answer was simple: they shut the window. Senator Raggio and Mr. Sullivan discussed the fed funds for a short time. Senator Raggio asked Mr. Sullivan to explain how the fed funds rate is set for the committee's knowledge. Mr. Sullivan said it was set by supply and demand. They get three or four bids and take the lowest bid. Senator Bryan asked if there was any federal legislation on the amount the banks can borrow from each other. Mr. Sullivan said that there was none and that generally the borrowing is secured by government bond.

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Mr. Sullivan said that our state has always been an importer of money. He explained this by saying that they make make a $10,000,000 loan. Two Million of that might be their money and they go out and get other states to participate in the loan. When you get to a 12 percent statute and banks in California or New York can charge 16 or 18, you couldn't get them to participate in a loan. Anything over the amounts which the banks in the state could handle themselves, the project would just die. Senator Raggio asked if some local borrowers dealt out of state banks to avoid this. Mr. Sullivan said yes. He said what happened in most cases was they couldn't get the loan because it was tied to real estate within the state of Nevada. A bank outside the state couldn't make the loan either. Senator Raggio asked if a mortgage company or somebody else could. Mr. Sullivan said no. Senator Raggio said that was difficult for him to understand because he knew of some cases where outside lenders lend money at more than 12 percent for real estate developments in this state. Mr. Sullivan said what they did was incorporate in something like Colorado corporation. He said there was a legality about the loans they did perform. They contravene the law and took an important attorney's opinion that it was not usurious.

Mr. Sullivan also pointed out that when the prime rate was 12 percent, if IBM or General Motors wanted to borrow from any bank in New York for 12 percent, they still had to maintain a 20 percent compensating balance. This makes the effective rate on that loan 14 and 14 and 1/2 percent. In Nevada they cannot require a compensating balance on a loan. If they do that have to figure that as part of the amount of interest they are earning. This is because it part of the statutes. Senator Raggio asked about points for making a loan. Mr. Sullivan said you couldn't do that. Twelve percent simple interest is all you can get, no points, no fees. You can recover your title policy costs or anything which is paid to an outside purchaser.

Mr. Sullivan said if you read the statute, the penalty for a usurious transaction is the forfeiture of that usurious interest. The supreme court decided that wasn't a fair enough penalty and said you would have to forfeit all of your interest.

Mr. Sullivan said the other two bills, S.B. 437 and S.B. 438, they are seeking relief. One has a restriction for corporations and the other for corporations over $100,000.

Mr. Sullivan said the problem there is that you get into that you are going to force the banks to make their loans strictly to corporations and to people that can borrow over $100,000 and again, you hurt the consumer. He said there was enough of a competitive situation in this state, that the free supply and demand of money, it will regulate itself.

Senator Bryan asked if he had any objection to Mr. Harmon's comment about including everyone in this bill. Mr. Sullivan said he thought they would have to because even insurance companies are big lenders in this state. That is where they go to get most of their permanent loans. Senator Raggio asked if the restriction is removed from all lending institutions, why should that be removed all together. Mr. Sullivan said he had no objections. Senator Raggio asked what the rationale was in other states for removing it from lending institutions only and not private institutions. Mr. Sullivan it was because lending institutions are all regulated. A private individual is not being watched like the lending institutions are. Senator Bryan asked if he was talking about the shylocking situation. Mr. Sullivan said yes.

Senator Blakemore asked what the national banks had to pay. He stated that there were more national banks in the state. Mr. Sullivan said the national banks are the same as the state banks. They are competing in the same money markets that they are competing in. When they are located in this state, they are governed by the usury laws of the state as far as loans.

Senator Raggio said there is apparently some very great misconception on the part of the public. The general public looks upon this as a device which serves financial institutions as something to merely raise the interest rates. He didn't feel that anyone had an appetite for the legislation if that were the purpose. He said he thought it was the general belief that there is some interaction. He felt this was a misconception, but thought it should be spoken to. Mr. Sullivan said right now there are two prime rates. First National City Bank and two others banks have a quarter of a percent lower interest rate than the rest of the banks in the country are showing. He said what happens when a bank lowers its prime rate, two things happen. They either stay competitive and drop with them or else the company borrowing the money will take their money out and go the bank that is lower. He said anytime you have extra money and want to get loans, you have your interest rate a quarter of a percent lower than the others. Senator Bryan said he thought what Senator Raggio was speaking to was that very seldom do you read about banks increasing the prime rate and being forced to cut back because no one followed. It seems like the movements up and down seem to be pretty much across the board. Mr. Sullivan said what happened was up until 1973 the prime rates were moved on more or less a haphazard basis. First National City Bank in 1973 decided they were being too haphazard and set up a formula to compute their prime rate. Mr. Sullivan explained this in more detail.

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Senator Echols asked if shylocking was strictly an illegal activity. Mr. Sullivan said yes. Senator Echols asked if he thought usury laws could control it. Mr. Sullivan said they were already breaking the law and the person why is going to shylock will never come back and plead the usury anyway. The only person who can claim usury is the person who pays the rates. Mr. Sullivan said it basically costs them between two and two and a half percent to broker the money. This is your cost before profit. Senator Echols asked what percentage of people in middle class situations the banks address themselves to. Mr. Sullivan answered by saying that anyone that can get a loan on a car is going to get it because the rates charged by the bank are lower than those charged by the dealers.

Senator Raggio asked how the situation last summer affected their profits. Mr. Sullivan indicated they were down substantially.

Arthur M. Smith, Chairman of the Board, First National Bank of Nevada, testified next. He addressed himself to the question Senator Echols asked about the small consumer. He stated that in his particular bank 35 percent of the dollars that they loan are channeled into that area. Senator Raggio asked what amounts he would be talking about. Mr. Smith said that would be their installment credit loan department-automobiles, swimming pools, bicycles, etc. They are small loans for consumer type purchases. Senator Echols asked if they were still making those small loans. Mr. Smith said yes, and they were losing on every one of them. They are charged 8 percent discount on these small loans. Senator Bryan asked Mr. Smith to explain the discount. Mr. Smith said if you loan a person $100 you charge him $8 for that loan, which equals $108 he has to pay back. Senator Bryan asked if that was included in the usury rate computation. Mr. Smith said that is a seperate law. Senator Bryan asked if that was an across the board policy that applied to all of them. Mr. Smith said he didn't think the others could make that kind of loan.

Mr. Smith addressed himself to the question of what the money really costs. Their biggest competitor for Nevada dollars is California. Utah would be second. He also said he felt money was going to get tight and they were going to have some relief. Mr. Smith discussed some statistics with the committee. They are attached and will be labeled Exhibit C. The point he was trying to make is that the money supply was cut off because they were in a period where they couldn't attract the dollars because of the rates. He stated the bill wasn't a big rip off and they weren't going to be able to gouge the people because the competition wouldn't let them. He stated that the New England states have no limit in most of the states.

Senator Sheerin asked about the adjacent states. Mr. Smith said California exempts banks, savings and loans, and certain other lenders. Utah is at 18 percent, Oregon is at no limit over $50,000.

At this time there was a break to return to the Senate Session. The meeting began again at 3:15 p.m.

Collins Butler, Executive Vice-President, Nevada Savings and Loan Association, testified next. He introduced the following people: Robert Banks, President of Home Savings; Curt Osman, President of Frontier Savings and Loan, Las Vegas; Julian Moore, Chairman, Board of Directors, Frontier Savings and Loan; Zachary Taylor, President, First Western Savings and Loan; and John Kerr, Vice-President, American Savings and Loan.

Mr. Butler stated he would like to join with the bankers in stated that the savings and loan associations have absolutely no objection to S.B. 372, section 1, being amended to extend to other lenders of any kind as long as they are responsible lenders. He stated they were in total sympathy with the commercial banks and their conflicts they find themselves in the market place. Because of a very undertain and deviating economy, the supply and demand of money has been very bad for the last two years. They support S.B. 372, Section 1.

They are in a totally different business than the commercial bank. The savings and loan associations are real estate lenders. They have the right to make home improvement loans and loans on mobile homes. By regulation they are primarily restricted to improve real estate. They are not involved with corporate finance, consumer finance, unless it directly relates to real estate. The vast majority of their loans are made on homes. They do apartment lending and some commercial real estate lending as well. California's usury law states there shall be a usury rate of 10 percent. However, commercial banks, insured savings and loan associations, and consumer finance and other lenders are exempt from it so they can fluctuate in the free market place.

Mr. Butler addressed himself to Section 2 of S.B. 372. He stated section 2 does not relate to commercial banks, but only to savings and loan assocations. It also does not relate to the usury law, according to their legal counsel. It makes two general statements and they would like to have one of those deleted. They have no quarrel with the first statement. They are asking that the balance of section 2 be deleted and it in affect, states that a state chartered savings and loan association cannot make a loan in which the initial loan fees are discounted, when added to the interest rate exceed 12 percent. After a short discussion it was determined that the portion Mr. Butler was addressing himself to was the portion to be deleted from the bill, if it passed. Mr. Butler said the situation they find themselves in is that to compete in todays rates, they are forced to either charge a very high rate, 9 to 12 percent, without any fee. The counter problem is that the home owner cannot afford the payments that go with the high rates. In the insured loan market, such as FHA and VA loans, the common practice is the discount rate is set by HUB. The market place determines the discount. At the present time the discount is as high as 7 percent and the coupon rate is 8 percent. This particular section precludes your state chartered savings and loan associations from dealing with insured loans. That leaves the mortgage bankers and other unsupervised state lenders to make the VA and FHA loans. They are asking for the right to join them to provide the buyer the right to select other lenders. Federally chartered savings and loan associations are not under this provision, but state chartered banks are, indirectly.

Mr. Butler stated they had money to loan and they are looking for loans. Section 2 deprives them of the right to go into the markep place and to work under the various federal regulations they have to contend with, and at the same time compete with the same money market. They cannot do this. This has not only precluded them from making insured loans, but also from buy downs. Mr. Butler explained what a buy down was. He urged the passage of the bill as amended.

Senator Raggio said he had been referring to other states who do not have usury laws and asked Mr. Butler to enlighten the committee on that. He asked if California had a provision of this nature. Mr. Butler said no, and that in 20 years of experience, he had never seen a provision like this. He said he had never seen a first year fee-rate combination like this.

Senator Sheerin said if people cannot afford to buy homes at 11 percent, if we repeal the usury law or amend 673.330, how will this help people solve the problem of people buying homes. Mr. Butler said relating to insured loans, the buyer is only allowed to pay a one percent fee. Any other fees or discounts that are paid must be paid by the seller. Financing is available to the purchaser and if a person has to sell his home, he has the option of paying the discount called for in the money market.

Senator Blakemore asked Mr. Sullivan at what point they close. Mr. Sullivan said it depended upon the industry and the length of the loan. Senator Blakemore said the average person cannot pay what is beyond the rates. He asked at what point does this apply or not apply. Mr. Sullivan sited an example for the committee about buying an airplane. Senator Blakemore asked when that point was reached. Mr. Sullivan said when the consumer finally uses the object of the loan. The higher the rate of interest the less you can borrow. Mr. Butler said the jeopardy rate over the years is increasing. It used to be 7 and 1/2 percent. The last disintermediation they had last summer, they found people gave up and quit buying somewhere around 10 percent. Another general rule is that anytime their home payment exceeds roughly a third of their gross before taxes, they cannot do it.

Senator Bryan asked if this was a provision that they believed to be unique in savings and loan statutes. Mr. Butler said yes. Senator Bryan then asked him to explain the genesis of the provision. Mr. Butler said he suspected, and this is not fact, that the birth of this took place back in the early 1960's to curb such things as a 10 percent rate and a 15 percent fee. He thought it was designed as an asset controlling factor for savings and loan. Senator Bryan asked if there were any continuing justifications for continuing these provisions, and if not, are there other safeguards to address themselves to the type of asset control that apparently was sought to be accomplished by this provision. Mr. Butler said it was his belief there is ample safeguard. The insured savings and loan associations throughout the nation are highly regulated and regularly examined. The state chartered associations are examined every year by two sets of examiners-state examiners and federal home and bank examiners. They spend a vast majority of the time looking at their quality of asset.

Senator Sheerin asked if they amended this chapter would they be able to get involved in FHA and VA loans or will you be able to get into the practice of charging the seller points also. Mr. Butler said that was the whole point-to be able to get involved in the loans that they cannot now touch. He said the point structure is determined by competition and the supply and demand, the situation that was described to you in the street. He said they would be able to get involved in FHA and VA loans. Senator Sheerin asked what prevented them from doing that now. Mr. Butler said the money markets are such that the discounts required add up to more than 12 percent.

Senator Echols asked Mr. Butler to briefly explain consumer product loans that are connected to real estate. Mr. Butler said the savings and loan industry came out of the Federal Banking Act in 1933, which was designed by Congress and supervised by Federal Home Bank System. The intent was to help people buy homes over long periods of time with advertised monthly loan that they could afford, like rent. As the industry grew and developed, the savings and loan industry just gradually developed into a real estate lender. Senator Echols asked how they tie an automobile to a real estate loan. Mr. Butler said they cannot make automobile loans. He explained these consumer items that are connected to real estate would be dishwashers, kitchen appliances, etc. Senator Echols asked if they made loans on mobile homes. Mr. Butler said they were allowed to.

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Senator Raggio asked what the affect on the depositers would be in the jurisdiction which have eleminated this restriction. He also asked what the affect would be on the interest to the depositers and if they would be able to increase the interest on ordinary deposits. Mr. Butler said speaking of insured institutions, all maximum rates that they are able charge are set by the Federal Home and Bank Board in conjunction with the Treasury Department. They have the option of paying less, but not more. They determine the amount, the minimum term and the maximum rate. The institutions in Nevada, to his knowledge, are all paying the maximum term that is allowed. There have been a series of rate increases over the last 18 months to help the consumer. Their high accounts have gone from 6 percent for a three year deposit to as high as 7 and 3/4 percent that they are currently paying. Senator Raggio asked if that was on a long term loan. Mr. Butler said that was on a 6 year account. Senator Raggio asked if he was saying that the Federal Home and Bank Board sets the rate the same in every jurisdiction. Mr. Butler said yes. Senator Raggio asked if there was some fluctuation on that where the portfolio is bad, etc. Mr. Butler said if there was a supervisory problem, they have the option of setting a lower rate. They would not have the option of setting a higher rate. What they would do is either merge you into a sound institution or come to you with advances. Senator Raggio said there is no advantage to the depositer if they take off the rate that you can charge. Mr. Butler said there wasn't. Senator Raggio asked if that was true with the banks. Mr. Sullivan said it was now. He stated there was an act in Congress now where they are reviewing the entire financial structure of the United States. One of the recommendations in there is to phase out Regulation Q, which determines the maximum amount they can pay. Senator Raggio asked if that applied to both banks and Savings and Loans. Mr. Sullivan said yes. Senator Raggio said it was his understanding that on large cash deposits in California they are able to pay 13 percent. Mr. Sullivan said it exempts deposits over $100,000.

Mr. Butler said he would also clarify that point. He said the savings and loans have that right also over $100,000. However, their typical account is a $3,000 account.

Senator Sheerin said if the prime rate were 3 percent, there would be no problem. He asked Mr. Butler if that were a fair statement. Mr. Butler said he thought that was true. Senator Sheerin asked what prime rate created a problem in Nevada. Mr. Butler said, in his opinion, somewhere around 9 to 9 and 1/2. Senator Sheerin said if money is costing 2 and 1/2 percent and you have a profit of 3 and 1/2 percent and you subtract that from 12, would that give you the same answer. Mr. Butler said no, there are a series of conflicts there. He said they could not go to a home buyer and say 9 and 1/2 percent because they cannot afford the payments and will not buy. They cannot discount that to a lower rate the home buyer can afford because of the provision they are discussion. By regulation they are now paying as high as 7 and 3/4 percent. They cost of money has gone up dramatically in the last 18 months. Their operating costs, without making any additions to reserves and without showing any kind of a profit, are at a range of 1 and 1/2 to 1.7 percent.

Don Brodeen, Chairman of the Legislative Committee of the Mortgage Bankers Association, testified next. Mr. Brodeen stated he wanted to compliment the banks and savings and loan associations for recognizing the fact that other lenders should be included in the exemptions of S.B. 372. He suggested the exemption be to any federally licensed or state licensed regulated lenders. Senator Raggio asked who that would include. Mr. Brodeen stated that would included mortgage companies and just anyones who is in the lending business. Mike Melner, Director of the Department of Commerce, said that was right and listed the state chartered banks, federally chartered banks, federally and state chartered savings and loan associations, out of state licensing system, mortgage companies that are federally approved, and credit unions that are federally chartered. Private corporations wouldn't be licensed as lending institutions under the language in the bill. Mr. Harley Harmon said that pension funds would also be included.

At this time Mr. Brodeen presented the committee with two exhibits. They will be labeled Exhibit D and Exhibit E. They pointed out the fact that mortgage companies are a very real source of funds for the state of Nevada. In 1972, 1973, and 1974, all the combined earnings of all the banks in Clark County was $383,000,000 plus. This information was contained in Exhibit E and Mr. Brodeen went on to explain it. Senator Raggio said that almost suggested that they hadn't had any trouble making loans. Mr. Brodeen said they did not have the problems that the savings and loan did because they could make it up in the discount.

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Senator Bryan referred back to the question Senator Sheerin asked about the prime rate. The trouble area is around 9 to 9 and 1/2. Senator Bryan asked Mr. Brodeen if there was some triggering mechanism which could be built into the law to provide, when reached, an escalator for the kinds of series rates would be eleminated. Mr. Brodeen said if you had an escalator factor, you would have to go back as far as two years to change the usury laws. Senator Bryan said he was speaking of something that would be triggered, some event or circumstance in the market that when rates reached a certain level that the provisions are lifted by a certain percentage point. Mr. Brodeen said that his colleagues could answer this question better than he. Mr. Dick Bissett spoke from the audience in response to Senator Bryan's question. He stated that there is always a desire to tie it into something that could be defined, like prime rate is so easily defined. There are some borrowers who need money who represent an element of risk. The difference between prime and whatever the cap is on prime comes into effect, with that risk situation he is not going to be able to get money at any price. When you are pricing that into the loan and the prime is at 4 and you add your risk factor to it, the price you charge for the risk involved may be well above prime. Senator Bryan asked if there were any states that adopted a form where, for example, someone like Mike Melner would have regulatory authority by law upon findings of fact being made by the department head indicating that the market conditions are at such a extreme circumstance and authorize him by regulations to increase so the money could flow in. Mr. Brodeen said he was not aware of any state set up like that. Fran Breen said there were three state, New Jersey, New York, and Pennsylvania, that have a similar arrangement. He did explain each state briefly.

Senator Sheerin asked Mr. Sullivan if there would be a different trigger that would be applied to banks than savings and loans. Mr. Sullivan said yes because the banks rates are always going to be higher than the savings and loans.

Roland Oakes, Associated General Contractors, testified next. The contractors, at the meeting of February 14, directed Mr. Oakes to prepare such a bill. He found out that the bankers were preparing the bill themselves. Their interest in this legislation is that in 1973 their total volume was about $620,000,000. Their volume in 1974 was about $440,000,000. Taking into account a 12 percent inflation factor, they lost in excess of 33 and 1/3 percent of their volume from 1973 to 1974. At the present time in their industry they have between 20 and 30 percent of their employees out of work. The people they build for are unable to compete for sufficient money to go ahead with the projects that would provide work for the people Mr. Oakes represents. They wanted to go on record as being in favor of the bill as it is drafted.

Paul Argeres, Nevada Association of Realtors, testified next. He stated the realtors are very much aware of the problems that have been called to the attention of the committee in this meeting. He stated they were in favor of this bill with certain modifications. They feel is is unrealistic to have a 12 percent usury limit. His industry is dramatically affected by this type of legislation. They do not prosper very well under high interest rates. They do feel that they do have to have some money available to them if the money market develops to the extent where interest rates in excess of 12 percent do become a realistic thing. Mr. Argeres said what was going to happen, particulary in his market, is interest rates if this law is enacted and 12 percent usury rates is eleminated, they don't think they will be selling a great deal of property. However, he said it might make the difference between losing money temporarily and going broke. Mr. Argeres said the present wording, which exempts only banks and savings and loan associations, is only a partial solution to the problem and, in fact, very unfair. They would suggest that anyone be exempt from usury laws. Mr. Argeres said that speaking for Washoe County along, as much as one half of the loans made are not made by institutions. This would be real estate loans. He said he was talking primarily of a substantial portion of the market where people who are selling their property carry back a portion of their equity. Mr. Argeres stated that he would hope any legislation that would be considered would permit everyone, including institution, to be exempt in this limit. They feel it would be advisable, perhaps to have some kind of limit. They have no specific recommendation, but feel that 12 percent is very unrealistic. They also wanted to go on record as being opposed to any legislation that sets a minimum, particularly S.B. 437 and S.B. 438. They feel the $100,000 limit is unrealistic because your are leaving out the majority of the market the realtors are in. Senator Raggio asked Mr. Argeres what his recommendation for a limit would be. Mr. Argeres said he hoped it might be something which would fluctuate. Senator Raggio asked if it was the position of his association that there shouldn't be an artificial money limit. Mr. Argeres said they feel that on real estate loans there should be no minimum set. He stated he also discussed this legislation with the president of Northern Nevada Home Builders Association and they have adopted a position identical with the realtors. They were unable to attend the meeting, and the representative, Len Cooper, asked that their feelings be related to the committee.

R.J. Bissett, Weyerhauser Mortgage Company, testified next. He stated the situations the banks gave also relate to the mortgage banking industry. He addressed himself to Senator Bryan's question about capping or defining this. He said this gets down to a basic definition of usury. The financial world today is dealing with floating rates and fixed rates. If you attempt to provide caps in the form of a fixed rate, it is going to adversely affect floating rates and conversely affect the others. You can't have a situation where committments are made and then you have rapid changes and the whole thing changes. The profitable venture is no longer profitable because the income is fixed on the cost of the seller. He stated it was a very difficult definition and said at this point that the present law is very restrictive and is hurting the state of Nevada.

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Lee Bergstrom, Kapoury, Armstrong, Turner and Company, testified next. They are a certified public accounting firm throughout the state. He was representing his clients, particulary small business clients, who went through a very bad time. He was concerned about the ability of his clients to obtain the financing they have to have to survive, much less to grow.

Mr. Bergstrom addressed himself to Senator Bills 437, 438, and 439 for a moment. He this bills were discriminatory to the small borrower.

Mr. Bergstrom urged an amendment of S.B. 372 to permit all lenders to make loans at whatever the normal market interest may call for. They would also encourage the defeat of S.B. 437 and S.B. 438, which they don't believe are in the public interest because of being discriminatory to the small businessman. They would also encourage the defeat of S.B. 439 because they believe it is defective as to terminology.

Senator Bryan said he realized the expressed preference was to simply eliminate the cap. He said he did realize there was a problem and asked what Mr. Bergstrom's first preference would be as an alternative. Mr. Bergstrom said that he hadn't studied the question so his response would be that the members of the financial community would be better able to answer this question. He did say that perhaps a barometer type would be right.

Stanley Franklin, President of Sierra Charter Corporation, testified next. He said he felt that one of the things missing is the fact that what happened last summer is the first time we have ever had a prime rate of 12 percent. This hit him personally and his company. They employe approximately 200 people throughout the state. Last July and August they attempted to borrow several hundred thousand dollars, which they have borrowed on many occasions throughout the past years. They were told they couldn't

This was the first time in the history of the company they were willing to pay the high rate and they were turned down. After considerable hassle with the bank, and they didn't succeed with the loan, they ended up laying off about 40 people. Part of the money was to be used to pay county taxes and they didn't pay their county taxes. Their concern is that this is going to happen again. Mr. Franklin said the best trigger the country has had for 200 years is free enterprise. He said it was the duty of the committee and the obligation of the legislature to return the right to borrow money to the people of the State of Nevada at any time. He said he would rather borrow money and pay one or two percent more and stay in business and feed his family and keep the people working than close his doors and go bankrupt.

Mr. Brodeen said he pointed out that Nevada is a tax poor state. He didn't think you could relate the usury laws to any other state in the union. There is no state that falls in the same category that Nevada does.

Senator Echols remarked on the fact that there was no press present in the room and this was a very important and critical issue for the State of Nevada. He also commented briefly on S.B. 381, which prevents sex discrimination against credit applicants for sex or marital status. Fran Breen said he had many amendments which he has given to Senator Gojack, who is the sponsor of the bill. Mr. Arthur Smith said the suggestions given to Senator Gojack were to put the bill in conformance with the federal bill. The bankers would support it.

Mike Melner, State Commerce Director, testified next. One of the charges of the department is to protect the consumer and their interests. The Commerce Department supports S.B. 372 as it allows licensed lending institutions albeit federal or state the authority to make loans beyond usury limitations.

Senator Raggio said they had heard some recommendations that the bill should apply to everyone. Everyone ought to have the right to lend; thats the free enterprise way in the system. Senator Raggio said he would like to have an answer to that. If free enterprise controls this, why does it matter if we take it off licensed and regulated lenders or anyone else. Mr. Melner said these people are held to a much higher standard. The supervision at banks and savings and loans go through the maintenance of reserves and accounts. The supervision they received brings them up to a higher level and they are much more responsible. Because they are held to that higher standard they are probably entitled to more in the way of rights in the market place. When you say free enterprise, how free is it really. There are many barriers on them already that are placed there in the interest of the consumer. Senator Raggio said he didn't want to get into a situation where someone says you're helping consumers but stifling competition. He asked why they should allow the banks or the savings and loans to loan at 15 percent and not, say the person with some money to lend. Mr. Melner said he didn't think that person was competing for money in the market and purchasing money in the market place the way these people are. This person is probably investing their own money and if they can get 15 percent, that's fine. He said these people would be investing their own funds where the banks, etc., would be investing public funds. Senator Raggio asked about the person that takes a second mortgage back on the sale of a property. Senator Blakemore asked if that would be more classified than the guy that sells an occasional automobile. Senator Bryan said there is no exemption for an occasional sale.

over

Senator Bryan asked Mr. Melner if the committee didn't want to take the ceiling off, did he have some alternative in mind for a triggering mechanism which would operate to lift the usury rate for all of them. Mr. Melner said he supposed there could be a mechanism somehow related to prime except that he saw the problem or a greater degree of risk. You would get more out of it because of the risk and in floating from prime, it may be too many points for normal. He did say he thought triggering mechanisms would be rather difficult. He didn't know what the logical line would be. Senator Raggio asked what the reason was for a usury law to begin with. Mr. Melner said when money was at low rates, people who couldn't borrow were being gouged and forced to pay excessive rates. It is certainly consumer protection in its original form. Senator Raggio said evidently the free enterprise system didn't work because the usury law was imposed. What was the reason for that. Mr. Melner said maybe it was the heavy-handed and irresponsible nature of lenders at that time. They were much less supervised, regulated and supervised. Zachary Taylor, First Western Savings, pointed out to the committee that an article explaining usury had been presented to the committee and that this article would be very beneficial to them in understanding it.

Senator Echols said there are private investors who have some business expertise who are willing to get involved in a risk capital situation. They are willing to do this unless they can enjoy a greater return for their money. What is happening as a result of this is that some of them are circumventing the usury law by going about this method of financing in various devious methods. He asked why everyone couldn't be included. Mr. Melner said he was compelled both ways because he can see both sides. He said he couldn't answer the question directly.

Mr. R.J. Bisset returned to the table to respond to Senator Bryan's desire for some suggestions. There should be consideration of exemption of the financial institutions as been described from usury. These institutions handle by far the bulk of the transactions. For those not under that definition, they simply consider raising the fixed percentage limit, which would provide some relief. Considering we look at interest rates today in a far different context than they looked at interest rates when the legislation was drawn. Twelve percent seemed to be a figure they would never reach, but obviously they have gone well beyond that. He stated the legislature meets in two more years and if there is a financial crisis in the interim the institutions that have to function will be able to function and if it hurts individuals, the next legislature could look at that hurt and address itself to correction there. Raising it for those people not exempted would provide some relief for the private person.

Senator Raggio said it was not so much the question of relief. He said he was trying to understand the philosophy fully. He didn't want to be in a position of discriminating by saying they are trying to favor somebody in the money lending market. On the other hand what Mr. Bisset suggested is the limit on the individual lender. He asked why. He asked if there was a possibility of abuse. He said if the possiblity exists there, why doesn't it exist everywhere. Mr. Bisset said his personal philosophy is to agree with Senator Raggio and say everyone.

Ken Sullivan said the financial institution are in competitive business. If they gouge the customer this time, the customer, when the market changes, cannot get out of that situation and never get into it again. Whereas, the man who is not in a competitive business doesn't have the same governing factor in the free market system.

Roland Oakes said the contractors discussed in some detail rasing the limit. They would be in favor of taking the limit out completely. They feel that free enterprise would take care of setting up proper rates. Last summer people were looking for money at 18 and 20 percent to go ahead and complete their projects. In view of the substantial deficit the federal government is looking at next year, he didn't know what they would be looking at in the money market.

Fran Breen, in reference to S.B. 381, submitted a copy of the letter that was given to Senator Gojack. He stated that Senator Gojack was studying them now. (Exhibit F)

There being no further business, the meeting was adjourned.

Submitted by:

Kristine Zohner

Kristine Zohner, Committee Secretary

APPROVED BY:

Senator Gene Echols, Chairman

SENATE Commerce + Labor COMMITTEE Exhibit A

ROOM # 213
DAY Thursday DATE April 10, 1975

NAME	ORGANIZATION	ADDRESS	PHONE NUMBER

*NOTE: PLEASE PRINT ALL THE INFORMATION CLEARLY.

Ray Knisley		801 No Carson St Carson	883-0847
Don Brodeen	Weyerhaeuser Mtg Co of Nev	1580 DI Rd L.V.	732-1344
David P. Boyer	United Mortgage Co.	2066 4th L.V.	384-7272
R.J. Bissett	Weyerhaeuser Mortgage Co	1580 Desert Inn Rd. Las Vegas	732-1344
Lee Backus	Decatur Mtg & Loan	4510 W. Chas. Las Vegas	878-9395
Fran Breen	Nev. Bankers Assoc.	232 Court St Reno	786-7600
Jordan Crouch	" " "	Box 2493 Reno	7862666
Gino Del Carlo	" " "	Reno NV	322-6996
Alex Sample	Bank of Nev.	Las Vegas	385-9211
E. J. Oaks	Security Nat'l Bank	Reno	329-9711
Donald Wilkerson	Mason-McDuffie Investment	Reno Las Vegas	329-4631
Paul Angeres	Nev. Assoc. of Realtors	Reno	323-4177
Gene Milligan	Nev. Assoc. of Realtors	Reno	329-6648
Lou Mock	Western Mtg Co of Nev	Las Vegas	732-2310
Pat Maloney	Bankers Mtg. Co. of Calif	Las Vegas	7320151
Bill Kottinger	Paine Webber Jackson & Curtis	9010 Timothy Dr. Reno	825-552
A. M. Smith	First Nat'l Bank of Nev	Reno Nev	
Walt Warren	FNB / NBA	Reno	
Kenneth J. Sullivan Jr	Valley Bank of Nevada	Las Vegas	385-4161
Harley E Harmon	Nevada State Bank	Las Vegas	
George E Aker	Nevada National Bank	Reno	786-2424
Warren R. Condon	Nevada National Bank	Reno	786-2424
William E Butler	Nevada Savings & Loan	Las Vegas	385-2222

SENATE ____________________ COMMITTEE

ROOM # __________
DAY __________ DATE ____________________

NAME	ORGANIZATION	ADDRESS	PHONE NUMBER

*NOTE: PLEASE PRINT ALL THE INFORMATION CLEARLY.

John H. Kerr Jr.	American S+L Assn	Reno	323-3135
Leroy R. Bergstrom	Kafoury Armstrong Turner Co.	Reno	322-9471
ROBERT BANKS	HOME SAVINGS	RENO	786-7000
B. Julian Moore	Frontier Savings	Las Vegas	384-8762
Curt Oxman	" "	"	"
R.G. TAYLOR	FIRST WESTERN SAVINGS	LAS VEGAS	
Henry Jones	Valley Bank of Nev.		
MR. + MRS. STANLEY FRANKLIN	SIERRA CHARTER CORP.	LAS VEGAS	382143[illegible]
JOHN MADOLE	ASSOCIATED GENERAL CONTRACTORS	RENO	
ROWLAND OAKES	ASSOC GEN'L CONTRACTORS	RENO	

EXHIBIT D

son City for its next publicaiton.
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THE BEGINNING AND THE END OF USURY

'Usury' as precisely defined by Webster is the'lending of money at an unlawful rate of interest.' 'Usury' as defined by the legislatures of the 50 states is far more complicated. Whether or not there is any relation between the original concept of usury and the multiple versions now used is for the academicians to establish. 477

Suprisingly the origin of usury is in neither law nor economics --it was a creation of theology--the dogma of the Catholic Church established usury as a sin about the year 750 AD. That the Church, at least, had altered its position was obvious when in 1950, Pope Pius XII in an address to the employees of the Bank of Rome repudiated the opinion that the banking profession inevitably exposed one to the danger of losing eternal salvation. The right to interest on money loaned became acceptable primarily because the lender lost the use of his funds and thus the earning power of the money. Just as usury was treated originally as a sin--it takes on some of the same characteristics today--albeit for different reasons--now it's anti-consumer. The consumer is led to believe that a restrictive usury law will produce low-cost real estate loans.

There is but one simple overriding fact to remember--usury or not--the cost of money will be determined by the price the market will accept and the degree of risk taken by the lender. The real problem is one that must be carefully considered-- the fact that there are 50 different state usury laws. Unduly restrictive usury laws actually work against the consumer by denying mortgage credit to the people of the state. Consider the situation in Missouri with an 8% usury status; would you as a Missouri-based lender invest in local mortgages when you could buy loans in California yielding 10%? How does usury help the people of Missouri who want to buy a home?

Usury has been held out to the public as their protection against exorbitant interest rates. It fails in every way to provide this protection. The fact is that money will be available within any given area only as long as the price is right. When the price is not right, one of two things happen. If the price is too high, the borrower will not borrow; if too low, the lender will not lend (at least not in his home territory).

In the third and fourth quarters of 1974, we have seen interest rates on home loans climb to as high as 12%. Today, they are under 10%. Why did interest rates drop? Very simple, too few borrowers were willing to pay 12% for money. So we had a 12% loan rate, but few borrowers who would accept that rate. Other states with no usury limits on real estate loans were making some loans, but they like us were not getting many applications either. So what happens--lenders can't attract customers at 12%--lendable funds accumulate, and the rate is lowered until a level is reached that the borrower will accept.

Housing and home loans are like any other product, you'll buy only if the price is acceptable to you. When the price is too high, you find a substitute or stay where you are. Usury as a limitation to protect the consumer is a myth. The borrowers set the rates, not the lender. Usury is only a means of confusing the issue--confusing it by saying the user of funds is being harmed when he pays interest over what is set by the state law--tell that to the home buyers in Missouri that have an 8% usury law and no mortgage money.

No real estate lender can stay in business if his funds are over priced and unacceptable in his market. He has a choice --drop his rates to a level that people will accept or find an area where he can get the market price for his money. Recently, an example of this type of reaction was displayed when the market interest rates for loans exceeded the limits set by Nevada's usury law. California lenders, particularly banks and savings and loans, stopped lending in Nevada. As long as lenders have a choice of markets because of varying usury rates, those states with a low usury rate are going to be capital short. Usury rates should be abandoned in every state.

The emphasis on the cost of money frequently completely obscures the benefits that come from owning a home. The only thing that should cause concern is that there are funds always available at market prices so you can buy the best inflation hedge in the country--a home. The home buyers of Nevada will set the price of money. Usury only prevents lending--it is never a stimulant. If you don't believe it, look at the development of California where neither banks nor savings and loans have a usury limit.

With California's banks and savings and loans free from usury limits, it doesn't require much imagination to follow the direction of flow for loan funds in a period of rising interest rates. To give proper background to the discussion, mortgage interest rates in 1946 were 4%, and in 1974--12%. Obviously, what happened is that interest rates behave just as the price of other goods, not an unusual phenomenon. This problem caused by usury limits was displayed this year when lenders accustomed to making loans in Nevada stopped lending because of our usury law and put money into other markets at rates that were in keeping with the relationship between the demand and supply of money. Today those rates have dropped and loan funds are again available in Nevada--and why are loan funds available--because the supply of money exceeded the demand, and interest rates have dropped to attract borrowers.

Recently a new dimension has been added to the loan interest rate picture--the Federal Government. A new public law, #93-501, dated October 29, is an act 'to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, <u>and for other purposes</u>.' Title II of this act involves 'interest rate amendments regarding state usury ceilings on business and agricultural loans.' Section 202 of the act involves the

Federal Deposit Insurance Act (commercial banks) and Section 203 involves the National Housing Act (savings and loans). In essence, both sections say that in order to prevent discrimination against state chartered banks and insured savings and loans should the interest rate allowed in this new law exceed the state's rate, such bank or savings and loan would be permitted to charge a rate of interest on business or agricultural loans (of $25,000 or more), notwithstanding any state constitution or statute which is hereby preempted for the purposes of this section, of not more than 5% in excess of the discount rate on 90-day commercial paper at the Federal Reserve District Bank. The definition of business loans or agricultural loans is not given and needs to be explained, but the implication of the whole law is that states may expect continued erosion of their authority. What prompted the Federal Government to produce this act isn't known, but it appears to allow state chartered financial institutions to ignore the state usury laws in the two instances mentioned. It certainly gives federally chartered banks and savings and loans a separate limit on usury which varies from the state law.

If this type of legislation is to continue, a discussion of state usury may be academic. State governments should recognize their problem and make their own adjustments--including the removal of usury. The State of Nevada should not create any barriers to the constant flow of capital so necessary to permit the total development of the State's potential. The public's interest will best be served by allowing market competition to produce mortgage funds.

Exhibit C

STATISTICS FOR BANKS IN THE STATE OF NEVADA

	1969	1970	1971	1972	1973	1974
TOTAL DEPOSITS	$997,958,000	$1,152,648,000	$1,371,209,000	$1,545,067,000	$1,752,021,000	$1,752,410,000
GROWTH		154,690,000	218,561,000	173,858,000	206,954,000	389,000
PERCENTAGE		15.5%	19%	12.7%	13.4%	.2%
TOTAL LOANS	$659,138,000	$ 708,130,000	$ 769,962,000	$ 930,420,000	$1,133,207,000	$1,161,551,000
GROWTH		48,992,000	61,832,000	160,458,000	202,787,000	28,344,000
PERCENTAGE		6.9%	8.7%	20.8%	21.8%	2.5%
LOAN TO DEPOSIT PERCENTAGE	66.0%	61.4%	56.2%	60.2%	64.7%	66.3%

	68-69	69-70	70-71	71-72	72-73	73-74
Gaming Taxes	33,297	39,260	41,655	54,880	62,256	74,370
Growth		5,963	2,395	13,225	7,376	12,114
Percentage		17.9	6.1	31.7	13.4	19.5
Sales Taxes	38,997	54,720	60,113	68,372	79,886	93,243
Growth		15,723	5,393	8,259	11,514	13,357
Percentage		40.3	9.9	13.7	16.8	16.7

"Usury laws intensify the harm whenever the housing market is already hurting . . . and they hamper attempts to rescue the market"

There were some events of 1974 that had a special flavor even for a year of ultra-tight money:

• In Florida, Arizona and Texas, builders completing their units and ready to close sales found themselves hit with unexpected discounts on their conventional mortgages, ranging up to seven points. In many cases, this converted what had been profitable projects into net losses.

• In California, the turn in financing came so suddenly that many sales couldn't be closed after the buyer had moved in. Conventional financing dried up almost completely for a time and the only FHA-VA financing was by lenders willing to take a loss of up to 3½ points on each loan. For months, virtually the only source of construction money was an eastern commercial bank.

• In Missouri, such few sales as took place, conventional or FHA-VA, carried up to 18 points of discount to the seller.

• In New York, conventional loans were available only to "customers with meaningful historic deposit relationships" with a minimum of one-third down.

• In Maryland there were virtually no conventional mortgages made for more than twelve months.

• In Illinois, through much of the year, most conventional lending was at 50% minimum down-payments.

• Builders in at least 14 states were barred from any benefit of the $3 billion GNMA-FNMA conventional mortgage-purchase program by provisions in their state laws.

Correctives gone wrong. These horror stories are not illustrations of the effects of tight money *per se.* That alone would have been devastating enough. They are rather a summary of what happens when the extra constraints of state usury laws are piled upon a tightening money supply.

Even legislative attempts to soften the impact of usury laws turned into horror stories.

• Pennsylvania changed from a fixed to flexible usury law ceiling, set each month at 2½ percentage points above a federal bond rate index. This was a ceiling for loan commitments. But by the time of the loan closing, the commitment rate was far under the market.

• Illinois raised its usury-law ceiling three times in seven years: From 6% to 7% after the 1966 credit crunch. From 7% to 8% after 1969-70. And from 8%-9½% in July 1974. By the time the 9½% rate came, it was already far below the market. And the previous two changes came after that credit crunch had run its course.

• Virginia appears to have a model usury law. No ceiling, no restriction on fees. But it expressly forbids variable-rate loans, which are coming to be regarded as the salvation of the mortgage market.

• Each time a usury law is changed, an agonizing legislative battle seems to be required.

Extra turn of the screw. The usury laws intensify the harm whenever the housing market is already suffering from tight money, and they hamper attempts to rescue the market.

In easy-money times, the laws are virtually unseen. Thus in Florida, Arizona and Texas, interest rates never rose high enough to challenge the 10% ceilings—until 1974. Builders may not even have been aware there was a state usury law. Hence the unexpectedness of the mortgage discounts, which put some builders in serious jeopardy.

California at first adjusted to its 10% ceiling—affecting only lenders other than banks or savings and loan associations, with discount points. But when some bankers with mortgage-company customers expressed concern that points, even to the seller, might be construed as part of the borrower's interest payment, there was panic. Conventional lending halted and only a few hardy mortgage bankers continued to make FHA-VA loans—putting out money at 3 points of discount when it was costing them 6½ points from FNMA.

California banks and savings and loans, which in normal times provide the bulk of the state's mortgage money, are exempt from the usury law.

But in summer of 1974, the exempt lenders were virtually out of the mortgage market. Nearly all the state's mortgage money was from out-of-state sources, mostly FNMA, funnelled by mortgage bankers—until the legal questions about points were raised. There is still no definitive ruling from the attorney general's office.

OVER

CRAZY QUILT OF STATE USURY LAWS

Interest Ceilings

8%-8½%	9%-9½%	10%		12%	Floating	16% to None	
Alabama	Delaware	Arizona	Missouri	Colorado	Alaska	Connecticut	North Carolina
Minnesota	Georgia	Arkansas	Mississippi	Nevada	Pennsylvania	Indiana	New Hampshire
New York	Illinois	California	Montana	Washington		Kentucky	Rhode Island
Ohio	Iowa	District of Columbia	New Mexico	Wisconsin		Maine	Utah
Vermont	New Jersey*	Florida	Oklahoma			Massachusetts	Wyoming
	North Dakota	Idaho	Oregon			Michigan	
	South Carolina	Kansas	Puerto Rico				
		Louisiana	South Dakota				
		Maryland	Tennessee				
			Texas				

Ceiling also covers FHA-VA	Ceiling covers corporations	Some lenders are exempted	Restricts fees and-or discounts	
California	Arkansas	California	Colorado	New Jersey
Missouri	California	Colorado	District of Columbia	New Mexico
Nebraska**	Montana	Ohio	Indiana	New York
Ohio	Nevada	Oklahoma	Maryland	Pennsylvania
	Tennessee		Michigan	Vermont
			Mississippi	West Virginia
				Wisconsin

*Ceiling floats to 9½% maximum.

**Covers VA; FHA is exempt.

Note: Usury laws contain numerous provisions, and interpretations change frequently. Complete accuracy of this table cannot be guaranteed at date of publication

ROBERT J. MYLOD, EXECUTIVE VICE PRESIDENT, ADVANCED MORTGAGE CORP., DETROIT, MICH.

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In Maryland and the District of Columbia, the 10% ceilings—raised, after much agony, from earlier 8% ceilings—allow no fees or discounts of any kind. Hence, lenders have felt unable to afford mortgages since the fall of 1973.

Thwarted rescues. The money-market salvage efforts of federal agencies are repeatedly hamstrung by state usury laws. Kenneth Plant, research vice president for the Federal Home Loan Mortgage Corp. (Freddie Mac), has reported that 80% of his agency's commitments in 1973 and 1974 were concentrated in five of the nation's 12 Home Loan Bank districts, in large part because the usury laws in the other districts were more restrictive. A similar pattern would be found in the Federal National Mortgage Association's operations. Laws barring discounts and fees are blocking application of the GNMA-FNMA plan—even in states that have no usury law ceilings. Variable-rate mortgages would be hobbled by interest ceilings or restrictions on fees in at least two thirds of the states.

Disparity compounded. There is no consistency between state usury laws. That is one reason they do so much harm.

Usury-law ceilings this year range from 8% to 21%. In some half-dozen states, they apply to FHA VA as well as conventional home mortgages; in the others, only to conventionals.

Some states do not consider discounts to the seller part of the interest rate. Other states specifically outlaw discounts and fees of various kinds. Some even outlaw origination fees and late payment fees. In most states, however, there is no specific language or official ruling on the treatment of points and fees, leaving a gray area subject to panic and confusion.

A half-dozen states exempt certain classes of lenders from their usury laws. Typically, these are locally-based banks or savings institutions. (In California, it is any bank or S&L, local or otherwise.)

Several states, the largest California, have the same usury-law ceiling for corporations as for individuals, thus making construction loans and income-property mortgages subject to the same constraints as home mortgages.

Timetable of damages. Usury laws appear to do most of their damage to local housing markets in the early months of a tight-money period, before the credit crunch is all-pervasive, and again in the early months of recovery, when mortgage flows are resuming.

It's sometimes difficult to isolate the usury-law impact. This was particularly true in 1974, when there were so many other factors—environmental restraints, overbuilding and variations in local economies. But an instructive comparison may be made between Chicago and Detroit, Midwest markets with a minimum of environmental restraints, a minimum of over-building in one-family homes and about equally overbuilt in condominiums. Chicago in 1974 had one of the strongest economies in the Midwest; Detroit was hobbled by auto layoffs that had begun late in 1973. But Illinois had a usury law ceiling of 8% until July of 1974; Michigan has had no ceiling since 1970.

Over the entire first half, Chicago one-to-four family permits fell 47% from their five-year average; Detroit's fell only 25%.

In the second quarter of 1974, when a new round of disintermediation began, Chicago home permits fell 26% from their first-quarter annual rate; Detroit's increased by 7%.

And in the third quarter, when disintermediation grew more severe but Chicago's ceiling was raised to 9½%, the annual rate of Chicago home permits increased 23% over the first half rate and Detroit's declined by 9%.

Nationwide effect. In an earlier tight-money period, the entire national decline in the first half of 1969, when home permits fell to the third lowest level since World War II, was concentrated in nine states where usury ceilings were 7½% or less. States with 7% ceilings had three times the composite decline of states with 7½% ceilings.

In the 13 states that had 8% ceilings, home permits increased 14% in the first quarter and, then, as interest rates kept rising, declined 2% in the second quarter. These contrasts were muted later in the year as disintermediation became universal. (Interest rates and usury ceilings were lower five years ago.)

History. It's hard to find even a historical rationale for the usury laws affecting home mortgages. They do not appear to have arisen in response to any specific local abuse but rather as a carryover from the old English common law.

The concept of usury grew in the medieval church and applied originally to any form of interest. Usury-law provisions in more or less their present form were part of Queen Anne's Statutes, enacted in the 17th century. A lender's market area, in that day, might have been only a few square miles. This English law applied also in the American colonies and, when the first state constitutions were drawn, after the Revolution, they incorporated usury laws.

It is interesting that most of these original state usury laws had interest ceilings of 6%—ceilings that survived intact in most states as late as 1966.

A question of fairness. The laws are also lacking in internal rationale. What protection is afforded to borrowers, for example, when some lenders are permitted to charge whatever interest and fees they find necessary for home mortgages and other lenders are sharply restricted?

The truth is, usury laws are window dressing, retained for a token function. They are intended to be visible, without interfering with the workings of the mortgage market. When the ceilings do collide with market rates, they are—usually—modified, but only after long delays. By then, the damage has already been done.

I have been unable to discern any interest group that benefits by retaining usury ceilings. But there is inertia to be overcome in making any change, and there is political mileage in "restricting the moneylenders."

Some remedies. A few states have succeeded recently in removing all usury ceilings—though, as noted, not all other restrictions. These include Virginia, Michigan, and since April 1974, North Carolina. One strategy has been to remove ceilings temporarily, for a one or two-year period, to test what may happen in the mortgage market without their "protection." No adverse effects have been uncovered yet and Virginia's open rate was made permanent after two years. Michigan's was extended to 1977.

This is a strategy which deserves a concerted push by all segments of the housing industry in every state where usury laws prevail.

Perhaps a more effective strategy would be to work for a Federal law overriding state usury laws as part of some future National Housing Act. We recognize that credit is the key to the functioning of the housing industry and the fulfillment of the nation's housing needs. Clearly, one of the prerequisites to a smooth flow of housing credit is the removal of such artificial obstructions as the state usury laws.

Exhibit E

REAL ESTATE LOANS as recorded in
CLARK COUNTY NEVADA

Compiled for your records by
TITLE INSURANCE AND TRUST COMPANY

PRINCIPAL LENDERS	DOLLAR VALUE ACTIVITY			No. of TRUST DEEDS		
	1974	1973	1972	1974	1973	1972
VALLEY BANK OF NEVADA	62,814,167.	46,851,911.	44,357,011.	402	500	409
WEYERHAEUSER MTG. CO.	38,553,015.	51,369,531.	52,022,342.	769	1165	1180
F. N. B. OF NEVADA	24,854,765.	51,872,906.	38,341,733.	696	1054	714
NEVADA S/L ASSOC.	21,252,561.	22,652,983.	13,759,344.	424	557	307
MASON-McDUFFIE INV. CO.	18,580,675.	28,189,769.	22,693,825.	659	886	758
FIRST WESTERN S/L ASSOC.	17,516,522.	21,726,061.	12,827,697.	449	394	381
WESTERN MORTGAGE CO.	15,843,249.	22,738,191.	12,806,082.	480	580	513
WESTERN PACIFIC	10,498,825.	12,644,715.	15,322,300.	319	300	431
PIEDMONT MTG. CO.	10,362,635.	21,173,343.	30,143,566.	200	322	687
BANKERS MTG. CO.	9,856,900.	14,716,240.	18,727,980.	343	478	783
HOME SAVINGS	9,364,910.	4,909,113.	16,714,668.	99	114	253
COLWELL CO.	7,609,296.	19,497,700.	13,906,646.	211	417	397
NEVADA STATE BANK	7,359,764.	10,809,042.	21,301,006.	124	186	217
BANK OF NEVADA	7,299,157.	24,730,180.	27,861,028.	310	622	703
INVESTORS MTG. CO.	7,062,522.	8,688,285.	9,303,403.	272	356	404
FRONTIER SAVINGS ASSOC.	5,440,631.	7,779,457.	6,694,562.	179	243	184
LOMAS & NETTLETON CO.	4,137,315.	6,269,850.	9,850,059.	136	179	167
PIONEER CITIZENS BANK	3,198,737.	2,780,991.	1,403,831.	70	78	38
MEAIRS CO.	2,385,450.	3,211,675.	10,860,130.	88	116	429
UTILITY FINANCIAL CORP.	2,154,062.	4,988,973.	--	179	205	-
C. I. T. MORTGAGE CO.	1,221,387.	91,309.	--	84	11	-
NEVADA NATIONAL BANK	985,705.	3,839,272.	2,958,146.	93	174	173
SUB-TOTALS	288,352,250.	391,531,497.	381,855,359.	6586	8937	9128
INDIVIDUALS & OTHERS	445,914,304.	456,313,682.	425,297,589.	6468	6851	5860
TOTALS	734,266,554.	847,845,179.	807,152,948.	13054	15788	14988

This report is furnished as a public service by Title Insurance and Trust Company, but no responsibility is assu

THREE YEAR SUMMARY
1974 * 1973 * 1972

ITEMS OF INTEREST

No. of DEEDS — REAL PROPERTY TRANSFER TAX

Year	No.	Amount
1974	20,365	$391,727.21
1973	22,538	493,872.32
1972	20,623	405,343.23

BUILDING PERMITS

Year	No.	Amount
COUNTY OF CLARK		
1974	5,500	$124,522,053.
1973	8,614	257,245,263.
1972	8,256	231,212,738
CITY OF LAS VEGAS		
1974	4,775	$47,091,888.
1973	5,648	51,588.818
1972	5,573	65.526,318
NORTH LAS VEGAS		
1974	1,072	$ 4,596,670.
1973	1,065	8,872,220.
1972	1,346	10,316,804.
HENDERSON		
1974	1,050	$ 5,593,651.
1973	1,753	6,728,176.
1972	1,700	5,774,417.
BOULDER CITY		
1974	418	$ 2,535,153.
1973	572	6,053.632.
1972	496	6,651,353.

med for the accuracy herein

Exhibit F

BREEN, YOUNG, WHITEHEAD & HOY
CHARTERED
ATTORNEYS AND COUNSELLORS AT LAW
232 COURT STREET
RENO, NEVADA 89501
AREA CODE 702 786-7600

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ZEPHYR COVE, NEVADA 89448
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April 8, 1975

Mr. Jordan Crouch
Nevada Bankers Association
P. O. Box 2493
Reno, Nevada

Re: SB381

Dear Jordan:

I have compared SB381 and Title 7 of Public Law 93-495, the Federal Equal Credit Opportunity Act, and with the following amendments to SB381 I can see no reason why the Bankers Association should not be able to support the amended bill.

I have set out the section of SB381 as it is now in the bill, and following that I have set out the suggested amendment.

SEC.9. "Person" means a natural person, association, partnership, corporation or other legal entity.

Suggested amendment:

"SEC.9. "Person" means a natural person, association, partnership, corporation, government or governmental subdivision or agency or other legal entity."

SEC.11. 1. It is unlawful for any creditor to discriminate against any applicant on the basis of the applicant's sex or marital status with respect to any aspect of a credit transaction.
2. Such discrimination includes any instance where an applicant is affected adversely by a creditor's practice of:

(a) Imposing more stringent standards of creditworthiness upon applicants of one sex than upon applicants of the other sex or upon applicants belonging to one marital status group than upon applicants belonging to another such group; or

(b) Making loans to applicants of one sex or marital status group upon terms or conditions that are less favorable than the terms or conditions of loans made to applicants of the other sex or another marital status group.

Suggested amendment: Delete sub-section 2, 2(a) and 2(b). The reason for this is it does not appear in the Federal Act. The parts of sub-section 2(a) and 2(b) referring to differences based on sex are already adequately covered under the Act.

The reason for deleting the reference to "marital status group" is because the term itself is not defined and is ambiguous. Does it refer to single persons versus married persons versus persons legally separated versus widowed persons, living together but unmarried, age, number of dependents, social or financial status or what?

SEC. 12. 1. A creditor shall consider the combined income of both husband and wife for the purpose of extending credit to a married couple and shall not automatically exclude the income of the wife. The creditor shall determine the creditworthiness of the couple upon a reasonable evaluation of the past, present and foreseeable economic circumstances of both spouses.

I would suggest that this be changed to read as follows:

"SEC.12. 1. A creditor shall consider the combined income of both husband and wife <u>if they are living together</u> for the purpose of extending credit to <u>such married couple</u> and shall not <u>exclude the income of either without just cause</u>. The creditor shall determine the creditworthiness of the couple upon a reasonable evaluation of the past, present, and foreseeable economic circumstances of both spouses."

SEC. 12. 2. A request for the signatures of both parties to a marriage for the purpose of creating a valid lien or passing clear title does not constitute credit discrimination.

I suggest the following amendment:

"2. A request for the signatures of both parties to a marriage for the purpose of creating a valid lien passing clear title waiving inchoate rights to property or assigning earnings shall not constitute discrimination under this title."

I would also suggest the addition to Section 12 of a subsection 3, to read as follows:

"SEC.12. 3. An inquiry of marital status shall not constitute discrimination for purposes of this title if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of creditworthiness."

The reason for including this is that this is included in the Federal Act, Section 701(b), and it would be almost impossible for any credit agency to even have a credit application filled out if this question could not be asked.

I would also suggest a subsection 4 be added to Section 12 which would read as follows:

"SEC.12. 4. Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this title."

This is the language of 705(b), Public Law 93-495, and here again, it would be almost impossible to consider the creditworthiness of an individual or of a married couple if the state laws as to separate or community property in Nevada were not considered, and particularly in Nevada where we have such a large percentage of people who own property out-of-state.

SEC.14. A credit reporting agency shall identify separately within its records of the reports it delivers, the credit histories of any person, the person's spouse, if any, and the joint accounts of the person and spouse, if any, to the extent that such information is available to the agency.

The suggested amendment is:

"SEC. 14. A credit reporting agency shall identify separately within its records of the reports it delivers, the credit histories of any person, the person's spouse, if the parties are then living together, if any, and the joint accounts of the person and spouse, if any, to the extent that such information is available to the agency.

SEC. 18. 1. Any person injured by a discriminatory credit practice within the scope of the provisions of sections 2 to 18, inclusive, of this act may apply directly to the district court for relief. If the court determines that the creditor has violated any of such provisions and that the plaintiff has been injured thereby, the court may enjoin the creditor from continued violation, award damages to the plaintiff or grant both measures of relief.

2. A person may not pursue the remedy provided under this section if he is pursuing any remedy provided under the federal Equal Credit Opportunity Act (12 U.S.C. §1691) with respect to the same grievance.

I would suggest the addition of a subsection 3 and subsection 4 to Section 18; the suggested subsection 3 would read as follows:

"3. No provision of this act imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation or interpretation thereof by the division, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

The suggested subsection 4 would read as follows:

"4. Any action brought under the provisions of this act shall be commenced within one year from the date of the occurrence of the violation."

These two subsections are suggested in order to avoid inconsistencies with the federal act. The justification for the suggested subsection 3 is self-evident, namely, a lender should be able to rely on regulations or interpretations until declared invalid.

The suggested subsection 4 is to bring the two acts into conformity.

One of the big problems I see in this bill is what effect, if any, the state law will have on national banks and if it is determined that state law does not apply to national banks, then these differences would give competitive advantage for the national banks against state banks. For example, national banks would have a one year statute of limitations and state banks would probably be subject to a three year statute of limitations. N.R.S. 11.190(3)(a) which provides that the period for the commencement of actions is three years "on an action upon a liability created by statute."

As I said before, if the bill could be amended as provided herein, I certainly think the bankers could support SB381.

I am enclosing a copy of Public Law 93-495 in the event Senator Gojack does not have one.

Very truly yours,

F. R. Breen

FRB/p
Enclosure

Attachment 1

My name is Bill Kottinger. I'm a Vice President of Paine, Webber, Jackson & Curtis, members of the New York Stock Exchange. We are major dealers in short term money market instruments.

I am here to lend my support to Senate Bill 372 and urge its passage.

The money markets of our country since 1970 have been severely strained. Financial Institutions have been struggling with the problems of inflation, recession; shortages and the energy crisis and the accompanying financial consequences. The Banking System has suffered through periods of measurable dis-intermediation. The newspapers have carried headlines describing the recurring "credit crunches". We have seen just recently in the Bond Markets the growing impact of a gigantic federal deficit. I might point out the Banking System will be asked to absorb, by far, the largest percentage of the Government's deficit financing. Competition for capital could reach extreme levels as we go into fiscal 1976 and 1977 with a federal deficit that could reach in excess of 150 billion dollars. This month the Bond Market faces a staggering calender of new bond offerings. Secretary of the Treasury Simon, in a news conference recently raised his estimate of treasury offerings for the first 6 months of this year from 28 billion to 41 billion. The Treasury needs this calendar year are put at $80 billion, more than has ever been raised publicly by all borrowers in any previous year. All of this points to an almost inescapable conclusion that we are going to see much higher interest rates in the future. Even with an accommodating posture by the FRB we will be very lucky if we can avoid recurring periods of extremely tight credit.

In the past week Bond yields have jumped to new 1975 highs. A striking example of the yield increases occurred when for the first time since last September, a double digit interest rate was paid by Gulf States Utilities, a high-grade utility, on their 40MM offering of double A 30 year first mortage bonds priced at 10%. New 52 week Treasury Bills were auctioned at an average 6.47% up from 5.637% at the preceeding sale and the highest since last November 13. Postponements of planned bond sales have become commonplace due to the unsettled market conditions. Twelve major corporations announced delays in the past week, a record. Those delays included 300MM Texaco, 200MM United Aircraft, 200MM Manufacturers Hanover Bank and 100MM Ashland Oil. Long Governments were very weak as were State and City Bonds. Late Monday, the City of Montreal delayed its 75MM offering of 10 year debentures.

The cost of money, interest rates, becomes less important when we consider that we must face up to the simple fact that what we are really concerned about is - will there be money available at any price.

Last year certain geographical areas in our country, particularly in the South and Southeast, saw the banks in those regions operating under State Usury Laws where their limit was 300 to 400 Basis Points below the existing prime rate. This situation effectively cut off the availability of capital through normal commercial banking channels. (For a brief time in California last year Banks were paying in excess of 12% on CD's or to rephrase that situation, Bank Depositors were charging banks illegal or usurious rates under the State Laws of California.)

The Short Term money markets in our country are the most competitive markets in the world. Therefore, revising the provision which limits agreed interest rates by permitting a higher limit doesn't automatically open a Pandora's box of higher Interest Rates. In the current economic climate it is essential that you anticipate the possible problems that could occur. You should provide our Banks in Nevada with the greatest flexibility possible. A healthy banking industry is the single most important economic resource our state can have.

To summarize:

1. Raising Interest Ceilings does not automatically increase the cost of borrowing due to the extreme competitive conditions in the money markets.

2. Raising ceilings do serve the purpose of assuring availability of funds.

3. Since California & Utah, our sister state, saw fit to exclude banks from usury laws, some relief should be given our banks for obvious competitive reasons.

4. And finally, because of the unique economic conditions that face our country. This Ammendment anticipates a situation whereby needed statuatory relief to our banks would exist.