Senate

COMMERCE AND LABOR COMMITTEE

April 15, 1975

The meeting was called to order in Room #213 at 2:45 p.m., on Tuesday, April 15, 1975, with Senator Gene Echols in the chair.

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

OTHERS PRESENT: See Exhibit A

S.B. 343: Places restrictions on cancellation or nonrenewal of automobile liability insurance policies.

Senator Helen Herr, sponsor of the bill, testified in favor of the bill. She stated that through the years she has had friends with automobile insurance, who have had it for years and years. Then they may have had one accident and their policy was cancelled. Sometime ago, she had the legislative counsel look into the bills in other states to see what kind of bills they had to protect a person in times such as those mentioned above. One state was Arizona and the other Colorado. This bill is copied practically word for word from the Arizona bill. If you have an accident they can't cancel you without finding out if you are at fault. If they do cancel you, you go into a higher rick plan.

Senator Raggio: I have expressed my concern and interest in both the nonrenewal and the noncancellation of policies. The insurance commissioner gives the opinion that under present regulation, his office could reach the problem. The commissioner said that under no circumstance would the office of the commission tolerate such a situation if it were brought to their attention. The commissioner requested the matter be left as it is because he was afraid if this bill were enacted it would cause more people to be shifted to the assigned risk category.

Senator Herr indicated she had spoken to the commissioner, but she felt it would be the opposite way. She said whoever is the insurance commissioner two years from now might not feel the same way. Many states have something along these lines in their insurance statutes.

Senator Echols said if they put something like this into the statutes the insurance people are going to be much more selective in their initial approach. They will limit the amount of insurance available and increase the rates. Senator Herr said she was just trying to protect the person who has had the policy for years and then had an accident. She said she wasn't concerned so much about the person who has had accident after accident.

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Senator Raggio: Under Section 3 the insurer could cancel or fail to renew for various reasons. I think the first two are valid. I am disturbed when they would have the right to cancel for reckless or drunk driving. Those could happen to anybody.

S.B. 381: Prohibits discrimination against credit applicants on basis of sex or marital status.

Senator Mary Gojack, sponsor of the bill, testified in favor of the bill. Entered into the record at this time are exhibits which will be labeled EXHIBIT B and EXHIBIT C. The purpose of the bill is that on the basis of sex or marital status, people should not be discriminated against when they apply for credit. There is a federal law that has been enacted that will take affect October 28, 1975. Senator Gojack said she didn't feel this bill entirely took care of the problem and that was the reason for the state bill. At this time an exhibit was entered into the record and will be labeled EXHIBIT D.

Senator Gojack indicated she had spoken with Fran Breen about some proposed amendments and she is in agreement with those amendments.

Senator Gojack said one the most commonly asked questions is whether sex and marital status are relevant when applying for credit. She said the answer was not when it becomes a double negative. The question should be treated as one of individual credit worthiness. The creditor shouldn't just make assumptions that have been made in the past. They really should examine whether the person is a good credit risk and look at each case individually and not on the basis of sex or marital status. This is what they are seeking to do with S.B. 381.

Senator Gojack gave examples and then told about a test to see whether or not there is a case of discrimination. She felt they could demonstrate where there have been areas and times where discrimination has taken place. Very often the lending officers themselves have not really examined why they make the judgements they do. She thought this bill would help in terms of taking a good hard look at what their credit lending policies are all about. Many lending institutions throughout the country are looking at their credit policies. Its to their own credit to do it because they are finding women are a whole new credit market.

Senator Raggio: How do you envision this will work in practice. If a woman feels she has been discriminated against after making application for a loan at a bank or any lending institution then she would file a complaint with the banking division? Is there someone to process these type of complaints? How would they handle that. Would they go to the lender and ask him to explain why the loan was turned down? Senator Gojack said she would imagine that's what they would do. She stated that Mike Melner, Department of Commerce, was here and would be able to answer these questions better. She did say that if you don't apply the same kind of criteria then there is a case of discrimination.

Senator Raggio: Is there any was to clarify the need for this type of legislation in the State of Nevada? Has anyone made a collection of data and experience in this state? Senator Gojack said she has copies of letters from women who feel they have been discriminated against. Senator Raggio asked if anyone had collected any data. Senator Gojack said there had been no formal survey or collection. She said she could speak from person experience from attending seminars, all day work sessions, etc. Also from hearsay information.

Senator Monroe: I understood you to say that you felt if a lending agency took into consideration the possible pregnancy of a woman, that would be discriminatory? Senator Gojack said not necessarily. They can take those things into consideration in terms of pro-rating or projecting what the total family income might be. If they are going to do that, they have to take into consideration other kinds of things or diseases that might be unique to men. Senator Monroe asked if that would be discriminatory if they took that into consideration for the future. Senator Gojack said no. If they use the point system, they they should only use that one point system once.

Senator Monroe: Ordinarily a family changes the financial picture. If the woman still works, she has to hire a baby sitter, etc. They have a right to consider that. Senator Gojack said that was right.

Senator Sheerin: On Page 3, Line 36, it talks about awarding damages. What kind of damages do you have in mind? Senator Gojack said she didn't have any in mind. She thought that would depend on the individual case and their attorney.

Senator Sheerin: On Page 2, Lines 48-49, Judiciary has worked a great deal on relationships between husbands and wives and third party creditors. I would advise you that I think that language has got to come out of this bill, because it is potentially in conflict with what we are doing in Judiciary. In the same light, I will assure you that we are trying to make sure there is no discrimination based on sex. You have to take the third party into consideration when you draft these things and I think that language is in conflict. Senator Gojack said they would have to see what ultimately comes out of Judiciary Committee, but that speaks to Section 13 where if the parties are married and voluntarily and seperately apply for seperate credit from the same creditor. Senator Sheerin said the creditor is one thing and being sole responsible for the debt, if it turns out to be a community debt, that's another thing. Senator Gojack said the bill would have to conform with what other bills there are in the state. She thought they could work that out.

Mike Melner, State Commerce Director, testified next. When they first saw the bill, they did some looking into the problems being experienced in the department. They looked at the complaints they were having and the complaints federal agencies, which supervise credit, were having. They didn't find too many formal complaints because these kind of practices are so ingrained and traditional in lending institutions that when women run into them they just give up. Where they found complaints was in talking to women's groups and the information that Senator Gojack brought to them. These policies have become so ingrained that women have become used to them. They also spoke to the Office of the Controller in San Francisco. They have not had too many complaints out of the State of Nevada, but then were aware of credit practices on institutions doing business in Nevada. The discrimination seems to stem down from the man extending the credit. He is trained a certain way in credit policy. The national outfit can put out guidelines, but on the line the man extending the credit has the prejudice. They also talked to the Federal Trade Commission and found the same thing. He stated he would support the amendments proposed by Fran Breen. Mr. Melner addressed himself to Senator Raggio's question about the investigative techniques. He said if this was in the department, because it is in the banking division, they will have the experiece of bank examiners who know how to examine lines of credit.

Senator Raggio: The fiscal note on this indicating the cost because of a field investigator. Do you think you really need an investigator at this point? Is there present capability in the Department to handle this?

Mr. Melner said yes. He said he thought they could do it over the next two years. If they have a bad experience with it and he gets in trouble, they can come back in two years. He said they could do it if the money committee recognizes that if this becomes a much bigger thing over the course of two years, they would have to come back. He said it depended on the growth of the financial institutions over the next two years.

Senator Raggio: Until we have the opportunity to experience and know what kind of activity is involved, aren't you guessing about adding an investigator? Mr. Melner said that's why they came up with a random figure of one because they don't know what they need.

Mr. Melner said he very much supported the bill. He felt the Department could regulate it well and fairly and was in support of the amendments.

Gwen Rook, testified next. Mrs. Rook related to the committee the problems she had had getting credit after being divorced. She also had many problems getting credit after being remarried. Her testimony was quite lengthy but generally dealt in this area.

Fran Breen, Nevada Bankers Association, testified next. He stated the position of the bankers in reference to S.B. 381, as originally drawn, was that there were a great many problems with the language. They had no objection to the purpose of the bill. In view of the fact that there is federal legislation on the same subject, the way S.B. 381 was originally drafted, it would cause a tremendous amount of administrative and enforcement problems. Mr. Breen said he went through the federal and state bill and compared them. He wrote a letter to Mr. Jordan Crouch, which will be labeled EXHIBIT E, in which he has set out the suggested amendments. He stated that Senator Gojack and Mike Melner both agreed to the amendments. The purpose of the amendments is to get rid of the differences between the two bills. If the amendments are adopted, the bankers have no objection to the bill. He was confident that the amendments strengthened the bill and made it easier to administer.

Mr. Breen explained the amendments to the committee as follows:

1). The amendment on section 9 is to bring the bill into conformity with the federal act. The state act did not include government or governmental subdivision or agency.

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Senator Raggio asked why this would be discrimination. Mr. Breen said under the state act there would not be discrimination because they were not included in the definition of a person.

Senator Bryan asked what kind of credit the political subdivision or government agency would extend where they could be put in the position of being discriminatory. Mr. Breen said it would be the other way around because the political subdivision would be borrowing the money. Senator Raggio asked how you could have sex discrimination there. Mr. Breen said in the committee report for the federal legislation, there was considerable information concerning discrimination, not on the basis of sex, but there was discrimination where a political subdivision or political agency was attempting to get a loan. Senator Raggio said he thought the bill prevented discrimination for sex or marital status. Mr. Breen said the state bill was limited to that, but the federal bill was broader. Mr. Breen said this amendment broadens the state bill and makes it conform to the federal act. Otherwise you would have a situation where if a political subdivision felt they had been discriminated against they would have no remedy under the state act, but would under the federal act. Mr. Breen and Senator Raggio discussed this amendment briefly. Mr. Breen said there was a provision in both acts that said if you proceed under one act, you cannot proceed under the other.

2). Section 11. The state act is much broader than the federal act. Mr. Breen suggested that subsection 2, 2(a) and 2(b) be deleted because the parts of a and b referring to differences based on sex are already adequately covered under the Act. There is also a problem where it refers to a marital group because there is no definition as to what is a marital group. He pointed this out in the third paragraph of his letter.

3). Section 12. Mr. Breen said he thought this made the act better than the federal act because the amendment would make the distinction as to a married couple that is not living to gether. The federal act does not make that distinction.

4). Section 12, subparagraph 2. Mr. Breen suggested that there be added to that provision, language which makes it identical to the federal act. The state act omitted the portion which is underlined on page 3, paragraph 1. This is the federal act again.

Senator Foote said that section 12 you come to the situation where the man has gone to Alaska to work and the couple has no intention of dissolving the marriage. If you put

this in your language it would louse up their credit situation too. This says they have to be living together for their salaries to be considered. Senator Bryan said the way they resolved that in Judiciary Committee was they took three exceptions. One was where there is a divorce and there is no longer a marital community; the next if there is a seperation agreement where by its terms indicate their intentions of being seperate and apart; and the last if there is a decree of seperate benefits. Mr. Breen said maybe they could add something to the effect that they were only temporarily apart. Mr. Breen said he could see some problem in trying to itemize those.

5). Section 12, subsection 3. This was included for bringing it into conformity with the federal act; 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.

6). Section 12, subsection 4. That language is taken out of the federal act and the reasoning behind that amendment is, again, to bring it into conformance with the federal act.

7). Section 14. The same problem is there that Senator Foote raised. He will revise that language to take care pf that situation.

8). Section 18. Mr. Breen suggested that a subsection 3 and subsection 4 be added. Both are in the federal act. Again, these are to bring the state act into conformance with the federal act. This is on Page 5714, Subparagraph F of the federal act.

Senator Raggio: I do have a question about whether this would, in your opinion, apply to the National Banks. Would this state law apply? Mr. Breen said he would assume, and there is nothing in this act that specifically says whether it would or would not. There is one implication in the Federal Act. This is on Page 5713, subparagraph E. That would certainly imply, Mr. Breen said, that the federal act does not pre-empt the state law; and yet, in paragraph C, that is in the federal act. This is the only reference to state law. Mr. Breen said the supervision or administration on the federal level is with the Controller of the Currency for the national banks and for member banks of the federal reserve system by the federal reserve board. Every bank in Nevada is either a national bank or a member of the Federal Reserve System. Mr. Melner spoke from the audience and said there were two banks in the state that were not members of the federal reserve system. They are insured by the F.D.I.C.

Mr. Breen called the committee's attention to Page 5711 of the Federal Act. He said the federal law does apply to all lenders. It is a good questions as to whether the state law will apply to any of the banks and to national banks.

Senator Bryan: In the absence of federal preemption, it would apply, don't you agree? Doesn't Congress by express language, either in this or in some other provision of the banking act preempt, don't you think that state law would apply? Mr. Breen said yes, but this was an amendment to the Consumer Protection Act. This is not a new bill and he was not able to satisfy himself in going back to the Consumer Protection Act. He stated there might be some preemption in there. Mr. Breen said even in the event it would apply to even state banks then it ought to be in conformity with the federal law because the federal law does apply to every bank in Nevada.

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Senator Raggio: If this is amended it would apparently be in conformity with the federal statutes? Mr. Breen said yes, except that he thought the state act had a few things that the federal act does not.

Senator Raggio: From the bank's standpoint and from an individual standpoint, wouldn't it be desirable to have the remedy at the state level rather than at the federal level? Mr. Breen said the banks support the bill with his suggested amendments.

Senator Echols: I was told that the states could prohibit nationally chartered banks from doing business within their borders if they chose. Mr. Breen said if you are talking about a national bank doing business in Nevada, no. Senator Echols said he was talking about the State of Nevada that First National Bank and all the others would not be able to do business. They must be state chartered banks. Mr. Breen said he had never had the question raised. He said when a national bank is being chartered, the state has to be notified and they can be heard. He didn't think there was anything in the act that they could prevent it.

Barbara Weinberg, American Association of University Women and Nevadan's For ERA, testified next. AAUW actively supported the federal legislation to prohibit credit discrimination. They feel that S.B. 381 is a necessary compliment to that federal legislation. Ms. Weinberg said there were two significant trends in the United States that make credit practices of increasing concern. 1) The increasing importance of credit in our society; 2) The changing role of women in our society. She said credit extension is very subjective and very subtle. It is frequently based on unrealistic assumptions about women and their role. They believe that credit risk should be based on an individual's income, length of employment, previous credit history, and financial obligation. Sex and marital status are not valid criteria.

Ms. Weinberg said their goal is elemination of credit discrimination. They didn't want to see every woman fight through the courts on her individual case. They believe that the provision for the banking division to look into credit practices is a good one. The banking division can judge what constitutes discriminatory practice. They can see the impact of credit discrimination in our society. They can help industry eleminate discriminatory credit practices.

Kate Butler, testified next. She addressed herself to the question of whether there was discrimination in Nevada. She said there was no formalized study, but that it has come out in discussions, workshops, etc. Ms. Butler gave examples of credit discrimination.

Ms. Butler said the women's movement is teaching women to start with one credit card, such as a gas card, and then build up to having the utilities in her name, etc. The movement is also teaching them that if they run into a wall, you do everything you can to make stir against the public image of that company.

She said the federal act is more exact in the awarding of damages. There are awards described in the federal act for attorneys fees and for cost of action. She felt it might strengthen the state act if this was included.

George Archer, American Association of Retired People, testified next. The local chapter of this organization fully supports this bill. More than two-thirds of the retired people and the retired teachers are women. Mr. Archer stated that his wife applied for a credit card and was turned down. Mr. Archer said they wrote to the credit card company and said they could use another one just as well. Mr. Archer said one amendment he would suggest would be to include persons who are 65 or over. Retired people do have that additional thing to overcome. They wouldn't be buying real property probably, but would be buying appliances, etc.

John Kimble, Member 16 County Advisory Commission for the Aging, testified next. He said that as testified to earlier, the senior citizens just throw up their hands and say that's it. They don't make formal complaints. He urged the passage of the bill, with the amendment for the persons over 65.

S.B. 511: Restricts credit sales by wholesale liquor dealers to retail liquor stores with delinquent accounts.

Larry Ruvo, President of Best Brands, testified in favor of the bill. He is also chairman of the Legislative Committee for the Wine and Spirits Wholesalers of Nevada and the Nevada Beer Wholesalers of Nevada. S.B. 511 was suggested by the industry and was designed to prohibit credit from being utilized as an unfair business practice and from weakening the financial stability of the industry. Problems which create the need for such a bill are not unique to Nevada. The federal government in every other state has enacted statutes or regulations having the same purpose as the legislation recommended to you. Mr. Ruvo then introduced some of the wholesalers in the State of Nevada that were attending the meeting. The list is attached and will be labeled ATTACHMENT 1. Mr. Ruvo pointed out that every wholesaler in the State of Nevada has unanimously agreed to the proposed legislation.

Grant Sawyer, general counsel for the wholesalers, was the next witness. Mr. Sawyer's written testimony is attached and will be labeled ATTACHMENT 2.

QUESTIONS WERE ASKED OF MR. SAWYER AND ARE AS FOLLOWS:

Senator Raggio: Can you tell us in what way this is different from the federal law. I understand there is a federal law that is applicable to all states.

A. There is a federal law, and if that federal law were workable, none of the states would need to enact legislation.

Senator Raggio: What is the federal law? A. The federal law is 27 USC.205, supplemented by regulation 820. It provides that the extension of credit to a retailer for a period of time beyond the normal practice of the industry is prohibited and the extension of such credit induces any retailer to purchase to the exclusion of whole or in part beverages sold by other firms. The problem with this is it is national legislation and imposes criminal sanctions. The problem is that in order to prosecute under the federal legislation you have to prove intent to induce the retailer to do something special for the wholesaler. Therefore, the states have found it necessary to implement that law by passing state legislation.

Senator Raggio: Is there language there about the normal period of time. A. That normal period of time has been defined in regulation, and that regulation is 30 days. However, the interpretation of the regulation says that that time in any state statute shall be considered the time appropriate under the federal statute.

Senator Raggio: To your knowledge, has this federal law ever been enforced in this state? A. No, never to my knowledge.

Senator Raggio: Would your group support an addition to this bill which specficially prohibit a "tied house?" Is there any limitation now that provides other means of acquiring a "tied house?" For example, a wholesaler having an interest in the retail establishment or loaning money to the retail establishment?

Mr. Sawyer: I would say that a number of states in their laws have specifically prohibited "tied house." They have gotten to the problem that way, instead of by credit. It is my feeling, after talking to the people here, that we would be very supportive of adding such a provision. Mr. Ruvo said under the Justice Department, Bureau of Fire Arms, Alcohol and Tobacco, which regulates our industry, and again federal statutes provide that inducements and they are more apt to act on inducements which waived through cash transaction a loan, other than the extension of credit, buying the equipment. There are federal laws which prohibit wholesalers from becoming retailers. They are more apt to get involved in that because it can be more readily checked than the extension of credit. Extension of credit can be done through free merchandise, equipment, signs, etc., which can be checked through simple audit of either the wholesaler or the retailer. Senator Raggio asked Mr. Ruvo if he would object to this type of enlargement of the bill. Mr. Ruvo said he would have no objections whatsoever. Senator Raggio asked if there were cases now where the wholesaler has some interest in the retail outlet? Mr. Sawyer replied, there are not supposed to be; and if there are any, they are against the law.

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JIM COSTELLO, LAS VEGAS, said Pat Clark introduced a bill the day before AB 584, which specifically prohibits wholesalers from having interest in the retail outlet. Senator Bryan asked if other states take the approach Senator Raggio suggested? Mr. Sawyer referred to the summary of the states presented earl .r. Many states do specifically. The federal law covers all of the matters covered by Senator Raggio. They would have no objection whatsoever to strengthening the law. The Assembly Bill mentioned before, I understand, is on the general file for tomorrow. It merely starts at a higher level than this bill. But it is entirely compatible with this bill . Mr. Clark said the bill was entirely different from SB 511. There was a short discussion about Mr. Sawyer and Mr. Ruvo drawing up some new language to include 'tied house.' Mr. Ruvo said in the states of California, New York and Florida the federal agents have enforced, through the Justice Department, inducements that can be checked. The simplicity that we have tried to keep in SB 511 with regard to the extension of credit is something that can't really be checked as far as giving some type of asset. Senator Raggio said that apparently the federal law has not preempted, or the states would not be ssing legislation. I would feel more responsible if we passed a bill which covered the whole picture. I don't want to zero in on one aspect which might make it look like we are trying to collect bills. Mr. Ruvo said the question was asked earlier if federal agents had ever, in fact, enforced in the State of Nevada, any extensions of credit; and the answer is, to the best of my knowledge, no. They have come in in the last five and three years with inducements. He described some penalties that have been charged. Federal agents do have some strict regulations they adhere to throughout the states with the exception of the extension of credit. Senator Raggio said "I understand your group has no objection to the amendment". Senator Bryan asked if any states take a comprehensive approach in defining the evils and legislative policy behind the prohibition of the tied house arrangement, and then build into the statute certain evidentiary presumptions? Mr. Sawyer replied, I don't know specifically, but I think the answer to your question is yes. Most states have gone directly to the extension of credit. We will try to provide you with language as quickly as we can, but I am very concerned about the time.

Senator Bryan: There is some concern, from people I have talked to, that there is always a concern in the legislature when we seek to regulate credit in one industry. The next session everyone else is going to be up urging you to do the same for them. If you can broaden the base so that its not strictly a credit regulation process, that makes it distinguishable from any other industry. Mr. Sawyer said "we will do our best to get something back to you". Mr. Ruvo had some concern about whether they could get together the language in such a short time. This was discussed briefly. It was decided they would bring the language in on Thursday.

ANGUS McLEOD, DIVISION OF REAL ESTATE, testified regarding SB 508. They have two bills proposed with amend the Land Sales Act. They feel they need a preamble for the Land Sales Act stating what the legislative intent of the act is. They need this to help them make policy and to design their rules and regulations. Senator Blakemore asked when the bills were requested? Mr. McLeod replied, "in September." Senator Blakemore asked if they just sent over skeleton bills at that time with details following. Mr. McLeod said yes. Futher stating, they proposed the typical consumer

language of unfair and deceptive promotional activities. This bill, if passed, would give them authority to impose administrative fines up to $1,000. Another provision would give them temporary cease and desist orders under certain conditions. It also shortens the time period for a hearing. Senator Blakemore asked how many cases he had where he needed this. Mr. McLeod said they had some lawsuits and finally went to court and got an injunction on one major developer. Senator Blakemore said he sat on this committee two years ago and gave them a law they said was going to be it. Mr. McLeod said the final provision of the bill would give them ground for revocation and suspension. Senator Monroe asked if he (McLeod) just issued about a 70 page list of regulations on this industry? Mr. McLeod answered "yes." Senator Monroe asked how much regulation this industry needed? Mr. McLeod said he thought it needed all of that in those new regulations. Senator Monroe said he didn't know how they survived with all of the regulations. Senator Blakemore said he thought they solved the problem two years ago. There was a short discussion about other real estate bills, some being in the Committee on Government Affairs. Mr. McLeod said the only two bills he had dealt with chapter 119; he stated he thought the other bills came from the realtors.

MIKE MELNER, STATE COMMERCE DIRECTOR, said there were two issues involved. They are only concerned with the regulation. Senator Blakemore said I haven't heard a thing about this for two years. We thought we passed some pretty tough legislation the last time and now you're back two years later asking for more. Mr. Melner said I think these bills just clarify the law. Senator Blakemore asked why they needed to clarify it. Mr. Melner said it could work better. He said you don't recognize the problems you are going to have. Senator Blakemore asked who was ripping off who and if they had some statistics. He wanted to hear a lot more statistics showing that they really need this.

BOB EDMUNDSON, DEPUTY ATTORNEY GENERAL FOR THE DEPARTMENT, said they have been involved in the prosecution of a few cases. He said the initial case that went to court under this act is Landex case involving Mountain Meadow Ranchos in Elko County. This was a prosecution based on the new law. There was an additional prosecution that was commenced by the Real Estate Division involving Meadow Valley Ranchos. This was settled. He said government agencies in land sales are settling cases now because they are trying to change behavior to conform with statute. Mr. Edmunson said they were going to have another case coming up; he was not at liberty to indicate the parties involved. There are substantial violations involved. In addition, Mr. Edmundson said he had participated in inumerable hearings that have been held in the Real Estate Division. The first major hearing they held involved again violations by Landex Corporation for outright sales without a license. They were suspended for a few days, after a formal hearing. Following that there was a major complaint brought against Preferred Equities Corporation. They were suspended for four days and that is the only punishment on the books now. Another hearing that came up in 1974, and again this was an administrative hearing, was against Preferred Equities. This was resolved; there was a consent agreement and no punishment.

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SENATOR FOOTE: There were two bills that Senator Monroe testified about in Government Affairs that are inter-related to this bill. One was sales contracts and the other was 40 acres. Senator Monroe said one was to amend Chapter 119 to put 40 acres back in because it was taken out in 1973. Mr. Edmunson said what we wish to do is exempt 80 acres or more from subdivision laws. After Preferred Equities there was another hearing involving Landex Corporation and the use of multiple take-over sales. They settled that one with an agreement that only one take-over person would be allowed. There was another suspension in Aspen Hills about three or four months ago. There was an agreement and they were suspended for 10 days. Senator Monroe said it sounds like you have been doing alright; what is the problem? Mr. Edmunson said those 70 pages not cumulative, include portions of the old law. Further stating, in the Landex Case the Division joined with the Attorney General in the lawsuit. The A.G.'s office asked for a $1,500 fine under the false advertising statute for various comments that were made in the sales presentation. All the Real Estate Division can do is make the individual stop selling without a license and make him conform to the statute. Senator Bryan asked if there was a rule-making authority right now? You have obviously adopted wome regulations pursuant to that authority. Is there something in your delegation of jurisdiction that denies the flexibility to adopt new regulations? Mr. Edmunson said he thought that was it! For example: Florida and Arizona both have the provision in Section 5, which is basically a temporary restraining order type of provision, where prior to it you say you'll have the hearing in two or four days, but you must stop now. As it stands now, they have to wait 30 days before they can shut down an operation. Thirty days in this industry they could be sold out! Senator Bryan asked if they were seeking the cease and desist authority? Mr. Edmunson said for licensed activity, they have it for unlicensed activity.

Senator Bryan asked what the remedy would be for such a person? would they go to court and get a restraining order so you couldn't stop them? Mr. Edmunson said "yes." Senator Bryan said they could exhaus the remedies outlined in the bill. Mr. Edmunson said the way it reads, they could have an immediate hearing. Senator Bryan asked if they had any objections, if the committee has appetite to process the bill, to develop the same kind of requirements that are by rule required to get a temporary restraining order. Mr. Edmunson said he didn't see anything wrong with that. Mr. Melner said he thought that was one thing the Division has always attempted to do. We try to go to people and attempt to work it out, and I think the Division is doing an excellent job with the tools they have. However, I think they could be a little bit more precise.

Senator Monroe: With respect to the penalties, what about 11.330 where it allows you to fine them $10,000; isn't that a severe penalty? Mr. Edmondson said this is the kind of thing that is enforced by the District Attorney. It is a criminal penalty and the kind of thing that belongs to the District Attorney. It's for gross violation. Senator Blakemore said that Landex is getting pretty close with two violations.

SB 513

ANGUS McLEOD, DIVISION OF REAL ESTATE, testified. This bill was proposed by the Real Estate Divison. Section One clarifies the law by making it clear that rental agencies must come under the act. Senator Bryan asked what their definition was of a rental agency. Mr. McLeod said what they were thinking of was a person or company who compiles lists of apartments for rent and either takes a fee or will sell the lists. The bill further provides that certain records are not open to public inspection, without a court order. This would be things such as examinations, scores on examinations, investigations which are under way, and past criminal records. Senator Bryan asked what the justification was for not making the examinations open to the public. Mr. Melner said in their Contract with Educational Testing Service they must give a national exam. This compromises the exam nationally if someone gets hold of it. Sneator Bryan asked if an applicant who fails the exam would have the right to look at their paper. Mr. Melner said what generally happens is that since they are machine graded you contact Princeton. They will hand grade and tell you what general areas you made mistakes in. They also do item analysis. If there is an unusual disparity in the number of people who miss the same question, they will take it out of the exam. There was a short discussion about the applicant being able to see his paper to study the questions he missed. Mr. Edmondson said the legislation would definitely eliminate this practice. Senator Bryan asked if other states allowed this and Mr. Edmondson said every other state that is in ETS. There are about 33 states. Senator Bryan asked if they changed the exam? Mr. Edmondson said yes, there are about 3,300 questions in the body of the exam.

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Mr. McLeod said present law provides that before a person can become a broker, he or she must become licensed as a salesman in Nevada for two years. We want to change this to give credit to any state, not just Nevada. This is in Section 8. He explained the changes in the bill as: Section 4, changed the word promulgate to proposes; Section 5 states that in 1986 they can inspect the books of all brokers regularly. They are deleting that so they can do it now. Senator Monroe asked about the educational requirements and mentioned they must have 64 hours before th ey can become a broker. Someone replied from the audience that would be exactly two years; The Division shall publish a list of licensees on April 1 instead of August 1; Section 7 had been discussed previously; Section 8 takes out the reference to the broker and broker-salesman so that it just deals with the salesman. He must prove he has successfully completed a course approved by the Advisory Commission. The rest of the educational requirements in the bill refer to college level courses and they all pertain to brokers; Section 9 deals with the Commission's authority to establish rules and regulations for the education of salesmen. Senator Monroe asked about Section 11, subsection 1; this says that an applicant must have references from a resident that has known the applicant for 2 years or more. There was discussion about whether to take out the work resident citizen. Mr. McLeod said that in Section 12 the word association is deleted since none of those provisions pertain to association. Right now the law requires that the Division give the examination bi-monthly and states the months; Section 14 simply elimnates which months they must give the exam; they will still give it bi-monthly; Section 15 is simply clean-up language and says that before the administrator can investigate actions against a real estate broker, there must be a prima face' case made. They want it to say whenever a complaint has been filed, they can investigate the complaint. Senator Bryan asked if they thought it should be verified. Mr. Edmondson said they do it that way. He said Section 15 correlates with Section 18. Mr. McLeod said Section 16 is clean-up language. It substitues the word "many" for "shall have the power." Senator Sheerin said that under Section 16, subsection 1, you can revoke a license for misrepresentation. He asked if that related back to the Land Sales Act. Mr. Edmondson said part of the problem is that there are two entirely separate chapters. The thrust of it is that under Chapter 119 the Division will look toward the developer for enforcement against the developer. Under Chapter 645 they would look toward the broker. Senator Bryan

said that would take care of their problem and the answer to Senator Sheerin's question would be yes, you do have the authority. Line 9, was explained by Mr. McLeod. This is the ground for revocation of license. Line 14 says that a license may be revoked or suspenoded for any conduct which was unknown to the commission, but if had been known would have been ground for revocation at the time they approved the license; Section 17 takes out the word association in that Section; Section 18 is the most important part of the bill and they feel they have to have it. The language is the present law is not clear about the time limit for them to bring a hearing. They want to make it very clear that the complaint prepared by the Division is when they have a hearing. The notice requirements would be changed to 30 days. Page 10 gives the Division the right to present evidence at the hearing before the Advisory Commission, if they can show at that hearing that the evidence was not available after an investigation, and prior to the notice for the hearing. Mr. Edmondson said right now the Division is required to send out their whole file to the person who is going to be brought before the Advisory Commission. He said they want to limit it to that material which is actually going to be used before the Advisory Commission. Senator Bryan asked "what if the broker being charged is not aware of the evidence." Mr. Edmondson said maybe the terminology should be "relevant to the matter of the hearing." Senator Blakemore asked who would determine a diligent investigation has been made? Mr. Edmondson said the Commission. He said the purpose of this was so they could use evidence which they received and it was too late to mail. Senator Bryan said he thought there should be some cleanup language. He said there should be some safeguard so that when the evidence is received, it will be forwarded to the broker, salesmen, or whoever is involved, so they will have it. Senator Sheerin referred to Line 7, Page 33, doing away with verified complaint. On Page 10, line 18, the word "averbance" would no longer be applicable. Senator Bryan said there was a pretty strong argument about requiring a complaint to be verified because that requires the responding party to verify his answer. He said he wouldn't want that if he were in the Division's position. Mr. Edmondson said all the complaints are going to be brought by the Division, on the basis of information given to them by the injured party. Senator Bryan said there was no hardship for them to swear to it. He said he would want the answer verified because that means that answer is under oath. Mr. Edmondson said you could change line 35 to read "upon a verified complaint." Nick Harkins said Senator Bryan's statement brings up the point of whether you are proceeding under the Administrative Procedures Act. Mr. Harkins said they were not; and therefore, there is requirement that the answer be verified. Mr. Edmondson said Line 17 says a verified answer. Senator Bryan said it just seemed that you would want to get the person under oath so that you can use the answer itself as impeaching evidence that he is now testifying at the time of the hearing something different than he told you in his answer. He felt it would strengthen their position administratively. Mr. Edmondson said the reason for putting "may" there was because of the desire of the Division and the Commission not to require an answer. When you start getting into formal procedure, people feel they have to hire an Attorney and the expense gets phenomenal. Senator Bryan said if you are going to file an answer it would have to be verified, but you don't have to file an answer.

over

Mr. McLeod said the remainder of Page 10 is cleanup language. Senator Monroe asked if the three years was in conflict. Mr. McLeod said that was the statute of limitations and just meant they must take action within three years. That is language that has always been there.

Mr. McLeod said Section 19 clears up what the license year is. It would now expire a year from the date it was originally issued.

Senator Bryan asked if they drafted any cleanup language on the appeal procedure that is so vague now. Mr. Edmondson said no. He and Senator Bryan discussed this briefly.

Mr. McLeod said Sections 21 and 22 deal with the same subject. The new language proposes to limit the amount of recovery to $5,000 instead of $10,000 and limit any one licensee to $15,000. Senator Blakemore asked how many claims they have paid out of that fund. Mr. McLeod said about four or five. They have only had one claim over $5,000.

SB 514

Angus McLeod testified. He said this was not a bill they asked to have introduced. He said their only point would be that they hoped there would be better language under Chapter 645.343, Section 6 of the bill, Page 3. He said they were not clear on these

various dates whether the requirements are in addition to or include previous requirements. If the language after 1976 is intended to mean 15 units, they would want the language to be changed to say 15 units so there is no confusion about what is intended. Mr. Melner said he wanted to add something on the bill even though it is not a department bill. The Association of Realtors talked to the Department of Commerce all during the drafting and the Department is in agreement with the realtors as far as clarifying the educational requirements. The realtors have told Mr. Melner that they have worked this out with the University System and the Community College System. Senator Monroe asked if this conformed with SB 513. Mr. Melner said there was no conflict except for maybe some technical conflicts. Mr. Melner said the bills do two different things.

Gene Milligan, Nevada Association of Realtors, and Paul Argeres, President of the Association, testified next concerning SB 514. Mr. Milligan said this bill does not increase ordecrease or change educations requirements at all. He said there were essentially three major parts of this bill. One has to do with adding town-houses to the definition of real estate. The second major part has to do with the independent contractor status of real estate salesmen and broker salesmen. This was done at the request of NIC because these salesmen could be classified as employees. The worked with NIC to get this proposal and was approved by NIC's general counsel and Mr. Jim Lorringan, Commissioner of Management. Mr. Milligan discussed this briefly.

The remainder of the bill, with the exception of the section clarifying education, basically makes mention of the fact they are not employed by, but associated with. This is done throughout the bill. Wherever the word employed is, the word associated is put in. Page 4, Line 2, is the same language that is used in California. Last session the bill drafter omitted one paragraph which is line 20, Page 4 of this bill. This is the reason the confusion arose concerning the educational requirements. On Line 7, 64 semester units are required and that is the total number. This applies to brokers only.

Mr. Milligan said the intent of the bill was that each paragraph, beginning with Section 6, subparagraph 3, is intended to include the previous paragraph. The language, which was omitted, would clarify that the last two subsections, 6 and 7, are the total number required. The rest of the bill is cleanup language. On Page 6 there is some language inserted by the bill drafter on Line 14. Mr. Milligan explained Line 33, Page 7. They have no objection to it. Pages 8 and 9 are cleanup language with reference to the independent contractor. Page 10, the word association has been inserted.

ODET

Mr. Paul Argeres explained the background of Page 4, line 22, which is the educational requirements. Two years ago when the legislation was adopted the term college level was used. Mr. Argeres thought the intent there was clear, but the Advisory Commission thought there was some legal definition with the term college level which made it difficult for them to interpret. Mr. Argeres met with the Community College and University of Nevada and entered letters into the record concerning this. The will be labeled as exhibits. Basically, what they are asking for is that the college level refer to any course that is either taught at an accredited college or transferrable to an accredited college.

Mr. Milligan indicated they are in support of SB 513 and will come back to the committee with the conflicts resolved.

Senator Sheerin asked Mr. Argeres and Mr. Milligan if they had a position on SB 508 and SB 512. Mr. Argeres said on SB 508, they have been advised that the Division does not feel they have enough authority to envoke these penalties. He said he didn't feel the Association would object to any legislation that would produce stricter enforcement of the laws. They do support strict enforcement. Mr. Argeres said on SB 512, they really haven't studied the bill and couldn't take a position. They are in support of SB 513. Gene Milligan said that AB 9 does conflict with both of the other bills. Mr. Milligan said they were going to have to come up with some amendments.

SB 510: REQUIRES HEALTH MAINTENANCE ORGANIZATIONS TO PROVIDE FOR COORDINATION OF CERTAIN COVERAGES.

Irma Edwards, Nevada Insurance Division, testified about SB 510. She said that under most group insurance policies they have what is known as the coordination of benefits clause. This functions so that the person who is insured as an employee under one contract and as a dependent under another contract get 100 percent of their bills paid, but they don't make a profit on the insurance, which in turn raises the premium on it. Because the Health Maintenance Operation has not been allowed to do this, they have become primary carrier, that is, they pay first. Essentially what they are doing is subsidizing the other types of coverage. The bill is just making it equitable all the way around so they all get the same treatment.

Exhibit A

SENATE Commerce + Labor COMMITTEE

516

ROOM # 213
Tuesday DATE April 15, 1975

NAME	ORGANIZATION	ADDRESS	PHONE NUMBER
*NOTE: PLEASE PRINT ALL THE INFORMATION CLEARLY.			
Arthur Jenini	Beacon Dist.	Reno	323-3101
Tom Knapela	O.K. Distributors	Reno	329-1294
Jack McCoy	Luce & Son Whls.	Reno	786-2036
Dick Gripe	D & D Whsl	Reno	323-5135
Joe Morrey	Morrey Dist. Co.	Reno	329-1151
Robert Faiss	Lionel Sawyer	Las Vegas	385-2184
Larry Ruvo	Best Brands	Las Vegas	876-4500
[redacted] O Watson	Best Brands	Reno/Sparks	358-1811
Pat Clarke	Olin Imports	Las Vegas	735 9141
Jim Costello	Costello Beverage		876 4000
W.R. Martini	Nev. Beer Wholesalers (L.V.)		735-0613
Kurt Brown	Capital Beverages	C.C.	882-2122
Nicolaus R. Hawkins	Dept of Commerce	CC	885-4251
Lester O. Goddards	Commissioner, S&L + Mtge Los	CC	885-4259
Erma Edwards	Insurance Division	Carson	885-4270
Angus McLeod	Division of Real Estate	CC	885-4250
Fred Davis	Wine/Spirits Wholesalers Nev.		883277[illegible]
[redacted] no Del Carlo	Nev. Bankers		322-6996
[redacted] Breen	Nevada Bankers		786-7600
[illegible]	Dept of Commerce		885-[illegible]
John A. Caserta	W.N.C.C.		972-0701
Robert Edmondson	Atty. Gen.		885-42[illegible]

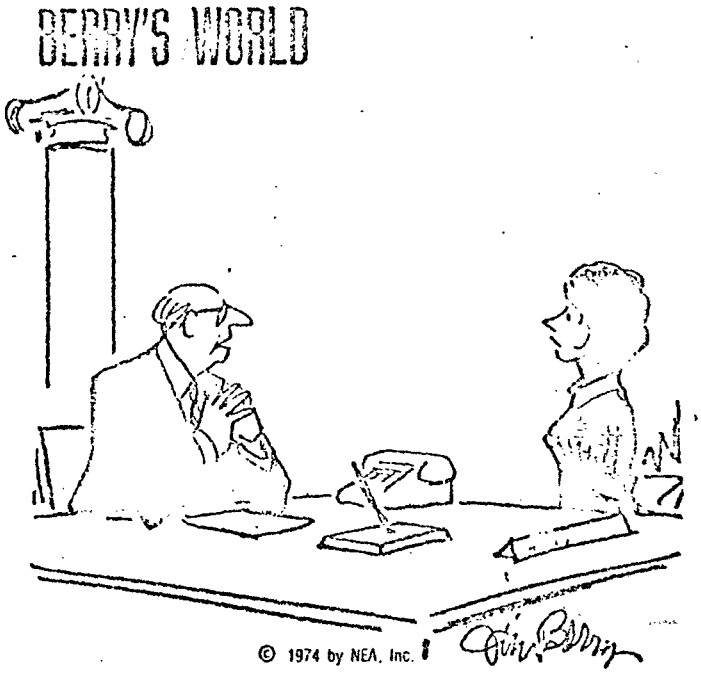
SENATE _____ COMMITTEE 517

ROOM # _____

_____ DATE _____

NAME	ORGANIZATION	ADDRESS	PHONE NUMBER
*NOTE: PLEASE PRINT ALL THE INFORMATION CLEARLY.			
Barbara Weinberg	AAUW	2001 Regent Reno, CARSON	322-6295
KATE BUTLER	NEVADANS FOR ERA	222 FLETCHMAN	883-2054
John R. Kimball	member of County Liquor advisory Commission	9 Pigeon Lane	
GEORGE M. ARCHER	A.A.R.P.	90 WINNIE LN	882-2688

Exhibit B



"All right, I'll cut out the mumbo-jumbo. The reason we can't give you bank credit is because you're only a woman!"

Exhibit C

Current Comment on Women's Unequal Access to Credit

Neil O. Littlefield*
of Denver, Colorado

A VERY RECENT DEVELOPMENT of interest to the practicing bar in the commercial field is the attention being paid to the woman as credit applicant. The development has caused credit grantors to reexamine their practices in the light of objections made that their practices smack of male chauvinism. Recent interest in the problem by legislative committees and the press indicates that the problem is more than a matter of sensitivity on the part of women's libbers. Recent information has tended to indicate that credit grantors may have a greater stake in discrimination-free practices than a mere desire to comply with statute or maintain good public relations. Some creditors are learning that profits are lost by assuming that all women applicants fit into a stereotyped role which dictates that women are less creditworthy than men.

Differential treatment in the granting or denial of credit on the basis of sex or marital status might be expected in a society and economy which assigns social and economic roles on the arbitrary basis of sex.[1] It is not proposed here to argue the basic fact that sex is used as a factor in the decision to grant, extend or deny credit. The record indicates that women are denied credit where men similarly situated would be granted credit.[2] A random inquiry of acquaintances will reveal even to the casual observer one or more of the following examples. Case 1 involves the single woman who has been gainfully employed for a number of years and has established credit with a number of enterprises. She decides to get married. She informs her creditors of her change of name[3] and address. The reaction of her creditors in such a situation has often been predictable, illogical and demeaning. Some of them instantly cancel the account, perhaps with an offer to have her husband apply for an account which he will be willing to let her use. Others inform her that the account can be continued only if her husband provides data on his economic life and if he assumes joint liability by adding his own name to the account. It goes without saying that similar treatment is not accorded the male upon his marriage.[4]

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* The author is a Professor of Law, University of Denver. He also was the author of "The Continuing Demise of the Holder in Due Course Concept" which appeared in the February 1974 issue of the Journal.

1. Initially, this writer subscribes to the following statement from a recent discussion of the Proposed Equal Rights Amendment to the U.S. Constitution. "American society has always confined women to a different and, by most standards, inferior status. The discrimination has been deep and pervasive." Brown, Emerson, Falk and Freedman, THE EQUAL RIGHTS AMENDMENT: A CONSTITUTIONAL BASIS FOR EQUAL RIGHTS FOR WOMEN, 80 Yale L. J. 871, 872 (1971).
2. Even a brief perusal by the reader of the available government documents will demonstrate that sexual discrimination is a definite factor in the granting, extension, and denial of credit. Spokesmen for the credit community do not attempt to defend or justify the existing situation, but simply limit their reaction to a self-confessing plea that change is occurring. *See, e.g., Hearings Before the National Commission on Consumer Finance on Availability of Credit to Women;* Washington, D.C., (May 22-23, 1972); and *Hearings Before the Federal Deposit Insurance Corporation in the Matter of Fair Housing Lending Practices;* Washington, D.C. (December 19, 1972).
3. In this example, I am not presenting the issue as to whether a woman should be legally entitled, upon marriage, to retain her own name. *See* Hughes, AND THEN THERE WERE TWO, 23 Hast L. J. 233 (1971) and Carlsson, SURNAMES OF MARRIED WOMEN AND LEGITIMATE CHILDREN, 17 N.Y.L.F. 552 (1971). Carlsson concluded in his article: "There is a property right in a name and therefore, no one, male or female, can be forced to give up a name or to assume an unwanted name. This is a basic right under the common law—a statutory negation of which is not possible under the Constitution." (*Supra* at 569)
4. The example cited in Case 1 appears in almost all testimony relevant to sex-based discrimination in granting credit. *See, e.g.,* Statement of Sharyn Campbell, before the National Commission on Consumer Finance, *supra* note 2. Similar statements were also made at the *Hearings on House Bill No. 1129 before the Business Affairs Committee of the Colorado House of Representatives,* February, 1973.

Neil O. Littlefield
of Denver, Colorado

Case 2 involves the married, wage-earning, head of the household, a female, who decides to divorce her husband. When she attempts to obtain credit thereafter, she runs into problems. Her economic position may actually have improved, and yet the credit grantors have procedures and attitudes which prevent the utilization of this improved economic position. On the other hand, the divorced husband continues with a favorable credit rating which may be due to the wages of his former wife. Case 3 involves the married woman who works full or part time to supplement the family's income. Her employment pattern is part of her life style, as is true of so many married women today,[5] and has continued with only brief interruption through two pregnancies. She and her husband wish to purchase a home appropriate to their joint economic status. In attempting to do so, they[6] learn that the bank will not fully credit the wife's income as a factor in determining the amount of the mortgage to be approved.[7]

The three cases set forth are only examples. It is difficult to fathom the reasons for the refusal of credit grantors to recognize the extent to which credit practices *usually* operate upon sex-related criteria. It is also surprising that the practice continues. The denial of credit does not have the same economic reasons for continuing as does the denial of appropriate wages to females. Discrimination in the latter case acts as an economic boon to the employer. He saves money. The credit grantor who discriminates on the basis of sex would seem to be closing a portion of the market which could increase his profits. The activities of credit grantors can only be ascribed to deeply engrained role stereotypes based upon sex. Any attempt to change the situation, therefore, must lie either in the education of credit grantors or in the setting of proper legislative standards, which would delineate a feasible nondiscriminatory criteria for the granting of credit. The impetus of legislation might be enough to change the manner of making credit determinations. It is here predicted that as creditors use nondiscriminatory standards they will learn that there will be no consequent losses. Thus, there will be no motivation for them to extend or deny credit other than on the basis of information and facts relevant to creditworthiness.

Credit Granting Practices

In the analysis of the credit risk, credit grantors concentrate upon three factors: character, capacity and capital.[8] These factors appear to be only a convenient way to classify various types of investigative information leading to the evaluation of credit risk. It has been stated that present-day credit men are becoming skeptical of the three C's,[9] in that the informational components resulting from investigation do not easily fit into the categories nor does the information directly respond to the categories.[10] Among the individual factors which credit evaluators do investigate are the following: income, employment, payment (or credit) record, residence (generally, length of), marital status, age, reputation, assets and collateral.

Some authorities on credit management differ in their approach to the factor of marital status or sex as influencing the credit risk decision. Thus, Ettinger and Golieb discuss only the legal status of the applicant and even then, only in quite vague a manner.[11] Cole and Hancock have no separate treatment of sex, but they do discuss marital status as a factor subject to investigation.[12] They note, "In most cases the information is simply married or single. In some cases information may be sought as to whether the person is a widow, widower or divorcee, as this status often affects the income and obligations against that income as well as the person's attitudes toward credit obligations."[13]

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5. *See* discussion and data, *infra* at notes 28 to 29.
6. It is not nearly often enough the subject of comment that many times the sex role assigned to a woman operates to the detriment of a male. In this case, the husband is as much the victim of sex discrimination as is the wife.
7. The three cases just discussed which indicate first that single women have more trouble than single men in obtaining credit, and secondly that creditors are usually much more reluctant to extend credit to a married woman in her own name than a married man are amply substantiated by the *Hearings* cited in note 2, *supra*.
   By way of a brief summary the *Hearings* reached five major conclusions with respect to sex discrimination in the field of consumer credit:
   1. First, that single women had more difficulty in obtaining credit than single men. This conclusion, however, appeared to be more characteristic of mortgage credit than of consumer credit.
   2. Creditors generally appeared to require women upon marriage to reapply for credit—usually in their husband's names. Such a similar reapplication was never asked of men when they married.
   3. Creditors showed a marked reluctance to extend credit to married women in their own name.
   4. Creditors were often found to be unwilling to count *any part* of the wife's income when a married couple applied for credit.
   5. Women who were divorced or widowed were often found to have marked difficulty in reestablishing credit. Women who had become separated were found to have a particularly difficult time, since the credit accounts tended to remain in the husband's name. A more complete summary of the testimony can be found in the Commission's Report: *Consumer Credit in the United States*, 152-53 (1972).
8. *See* R. Cole & R. Hancock, CONSUMER AND COMMERCIAL CREDIT MANAGEMENT, 184 (rev. ed. 1964) and R. Ettinger & D. Golieb, CREDITS AND COLLECTIONS, 59 (5th ed. 1972).
9. Some sources list a fourth "C", "conditions," which relates to general economic conditions and not to individual characteristics. *See*, W. Schultz & H. Reinhardt, CREDIT AND COLLECTION MANAGEMENT, 211 (3d ed. 1962).
10. Cole & Hancock, *supra* note 11, at 182.
11. Ettinger & Golieb, *supra* note 8, at p. 60.
12. Cole & Hancock, *supra* note 11.
13. *Id.* at 187.

It is difficult to see why a person's marital status should in any way be reflective of attitude toward credit obligations. Certainly Cole and Hancock offer no explanation. Presumably, the assumption is made that marriage indicates a stability of character which relates to creditworthiness. The texts, however, give no support for such a proposition.

This somewhat casual survey of an admittedly limited sample of credit management textbooks indicates a number of interesting preliminary observations. First, it should be obvious that the basic factors relevant to a credit risk decision have to do with economic and attitudinal data.[14] Secondly, the authorities are devoid of any reasoned relationship between either sex or marital status on the one hand and economic or attitudinal strengths on the other. If the creditor is to attempt a measure of attitude, the interview should be the technique, otherwise, the basic societal stereotype of role behavior and expectations exerts a discriminatory influence. For example, one authority states that "A family man is deemed a better moral risk than a bachelor or a divorced individual."[15] This statement is completely out of context and is a non sequitur. Lastly, it can be observed from the authorities that the decision to grant or deny credit is not an automatic or an easy one. The credit grantor can be told what factors should be relevant, but then he is left to reach his own decision.

After the credit investigation is complete, the information must be analyzed in order to make a credit decision. It is extremely difficult to obtain clear data on the exact "how" of the analysis and the credit decision. None of the authorities researched pretends to tell the credit grantor when to grant credit. This is understandable. Each credit grantor should be able to assume greater or lesser credit risks depending on the motivations leading one to grant credit. These motivations vary tremendously from creditor to creditor. Thus, a high volume sales agency granting sales credit is going to be more likely to extend credit than is a bank loan officer. The risk factor is tied to the profit factor. If the credit grantor will continue to make a profit on sales made on credit, lower credit standards will tend to increase overall sales profits. Increased sales profits may more than compensate for the increased losses which might follow from the application of lower credit standards. Similarly, a licensed small loan lender, being permitted by law to charge higher interest rates than a bank, will be more able to spread the increased costs of collection and default and can, therefore, accept a greater credit risk.

The credit granting decision is thus a decision to be made by each credit grantor. It is sometimes difficult to obtain reliable information as to what factors influence a credit grantor. Many of them when interviewed will simply make statements equivalent to, "It is an individual decision based upon a judgment made upon the basis of all information."[16] They then will deny that they discriminate upon the basis of sex. It is fairly well known, however, that most credit grantors use a point system in analyzing credit information.[17] The point system enables the credit grantor to incorporate in his decision pre-existing attitudes about sex. For example, assume that he assigns lesser points to a woman, particularly a divorced woman, than to a married man. He might explain that this is justifiable on the basis that women generally earn less than men. The fallacy here is that he has already assigned points to the applicant based upon the amount of her income. Or he might explain that divorced women are more difficult to locate than married males. Here the fallacy is that the point system will have already accounted for her length of residence. In other words, credit grantors are prone to examine not only the individual objective characteristics of a credit applicant but in the case of sex, they are likely to make an overriding, non-objective rating based upon expectations which, if true, should have been already reflected in the analysis. The objection of those who attack the present system is simply this: the analysis fails to use individually oriented data when it comes to the female sex.

The Case For and Against Discrimination

Let it be assumed that discrimination on the basis of sex in the granting of credit does exist. The discussion should then turn to the question of whether such discrimination is irrational or without factual basis. It might be argued that the discrimination is not of the invidious variety, that is, discrimination is nothing more than a reflection of the genuine differences between the economic characteristics of the sexes. Even if it is additionally postulated or agreed that the economic characteristics are present due to deeply ingrained societal notions of appropriate behavior, it may still be argued that it does not follow that the activities of credit grantors should be prohibited or regulated. The following is an attempt to evaluate whatever case can be made for discrimination in granting of credit because of such differences. It will then be suggested that it is necessary to balance this case against the policy of equal treatment. For the purpose of this article it seems sufficient to discuss briefly three factors; namely, income, pregnancy and job continuity. Brief mention will also be made of a fourth factor, which relates to the possibility of the creditor's recovering debts from a defaulting debtor.

Income as a Factor

It could be asserted that it is an economic fact that women earn less than men.[18] If this is accepted, then credit grantors will argue that they not only may, but should, take sex into account. The problem with this argument is that in nearly all cases the credit grantor will have received adequate information on the applicant's income—and quite possibly projected income—from the investigation process. If the income of the applicant is less because she is a woman, then the credit grantor will already have this information and will presumably take account of it in making the decision. It would be unfair to consider the income and then the sex of the applicant on the basis that

14. It may be difficult for an objective observer to accept the relevance of attitudinal factors, but a discussion of this is beyond the subject of this article.

15. Shultz & Reinhardt, *supra* note 12, at 212.

16. *See* Testimony of employees of Sears, Roebuck and Co., *Hearings of the National Commission on Consumer Finance*, *supra* note 2, May 23, 1972.

17. *See* A. Griffin, The Credit Jungle, Chapter 9 (1971).

18. *See* U.S. Dep't. of Labor, Women's Bureau Bull. 294, 1969 Handbook on Women Workers (hereinafter cited as 1969 Handbook) at 132-34.

women earn less than men. Advocates of equality in treatment simply wish male and female applicants to be treated alike. A woman with a monthly income of $800 wishes to be treated as would be a male with the same monthly income. Once income is known, sex should be irrelevant in the credit granting process. Female credit applicants should not be the victims of a system which gives double negative weight to the fact that they are of the female sex.

Pregnancy as a Factor

Much has been made of the fact that women are biologically different from men and this factor is often used to support differential treatment. A fair-minded commentator might be justified in agreeing with the major premise. The issue is joined and further discussion is necessitated, however, when it appears that the biological differences are utilized improperly as a rationalization for invidious discrimination. In the present context, the issue can be briefly put: what is the relevance to credit-worthiness of the fact that women bear children and men do not? The proponent of the status quo will underline the fact that pregnancy constitutes an economic negative in terms of direct costs of medical bills as well as indirect costs of time lost from work. The proponent will then conclude that it would be unrealistic for credit grantors to ignore this economic reality.[19]

Advocates of equality of treatment can easily respond to the pregnancy argument. It seems to this writer that a number of interrelated points can be made in support of equality of treatment in the credit granting decision. The most obvious one seems to have much to commend it. Where the creditor emphasizes the economic negative of the pregnancy leave, without considering as a negative factor leaves of absence occasioned by certain illnesses or medical conditions to which males are prone, there is discrimination. In this day and age it seems unrealistic to attach much importance to the possibility of the interruption in work caused by a pregnancy. It is a matter of common knowledge that the modern working woman need not, and often does not, permit the pregnancy significantly to interfere with her role as an income producer. The woman credit applicant with a record of a fairly stable income—which fact is presumably already known to the credit grantor—seems likely to assure herself that the pregnancy will not result in an income lapse too great for the financial needs which she is required to meet. It is also important to take note of the fact that an anticipated leave from work as a result of a pregnancy, unlike other medical reasons for income interruption, can be generally predicted for a period of up to six months. Barring medical complications, the length of such interruptions is also predictable and thus can be planned for in advance.

In summary, it would seem that the best approach for advocates of equality of treatment would be to confess and avoid. While it might be admitted that pregnancy is an economic fact, and therefore presumptively relevant to the credit granting decision, it is not the type of economic fact which permits an arbitrary assessment. It is presumptively unfair to make a negative assessment in a credit analysis simply because a woman applicant is of child bearing age. There is insufficient correlation between that fact and her creditworthiness. To do so is to perpetuate myths concerning the proper societal role of the female.

Job Continuity as a Factor

Job continuity is directly tied to income continuity and therefore is a legitimate concern of credit grantors. Credit investigations almost always include information about the type of position held and the length of time employed. Both of these facts are relevant to a prediction of continuity of income. Credit grantors have argued that a woman is a poorer credit risk in that she is more likely than the male to discontinue her working pattern. The reason is that the creditor feels that the women will at some time leave the labor force in order to rear children. Evidence of this attitude on the part of credit grantors is found most often in the practices of mortgage or other long-term credit grantors. Women have reported that they have been subjected to the humiliating experience of being given the choice of having their income considered in the credit decision only if they are willing to sign certain affidavits. One type of affidavit used has the applicant swear that she will not have any children. Certain lenders also ask that she submit medical evidence that she is unable to bear children.[20] The advocate of equality of treatment is aware of the fact that a male applicant for credit is not examined or cross-examined on the question of his career plans nor is he required to execute promises that he will not make career decisions for the future which will adversely affect his income producing status. It seems evident that the credit grantor is unfairly and irrationally programming role expectations into the decision-making process.

It must be admitted that a consideration of the factor of job continuity is most easily acceptable by the public at large. Common knowledge is that the male, rather than the female, is the primary wage earner upon marriage. Advocates for equal treatment reply that this common knowledge is based upon wrongly perceived sex role stereotypes. To act upon such common knowledge causes detriment to many females who do not choose the stereotype.

Proponents of equal treatment of credit applicants can buttress their position with relevant facts which are ignored in the immediately recreated dialogue. The credit grantor in making a determination of credit-worthiness in a gross fashion on the basis of sex is failing to take note of certain facts. From 1950 to 1967, the percentage of mothers in the labor force increased steadily from 21.6% to 38.2%.[21] The assumption that the working mother quits when children arrive is refuted by the statistical information which is available. An analysis of the working women

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19. The argument that pregnancy leads to a decision not to return to work because the mother will then be involved with rearing a child is here treated under job continuity. *See* text accompanying notes 27-30 *infra*.
20. *See generally*, Statement of William Taylor, *Hearings Before the Federal Deposit Insurance Corporation in the Matter of Fair Housing Lending Practices;* Washington, D.C. (December 19, 1972), and Statement of Steven H. Dohde, *Hearings Before the National Commission on Consumer Finance on Availability of Credit to Women;* Washington, D.C. (May 22-23, 1972).
21. *See* 1969 Handbook, *supra* note 21, Table 17, at 40.

of 1966-67 shows that over one-quarter of the women in the work force have children under the age of six and nearly half have children between the ages of 6 and 17 years of age.[22] There is no indication that these data are in any way isolated. On the contrary, all indications are that the trend toward fuller employment of women, whether single or married, childless or not, is continuing. It is true that the above-cited data does not refute the supposed correlation between sex and job continuity. It does indicate, however, that there exists a significant portion of the female population which does not follow the usually assumed pattern of working until marriage and/or motherhood—and then leaving the labor force. The present existence and continued increase in growth of this group of women does force a reevaluation of the desirability of using the supposed correlation.

Other Factors

Informal discussions by this writer with credit collection personnel have revealed some interesting facts about collection problems which might be supposed to create some correlation between credit-worthiness and sex. This completely informal source of information leads to the suggestion that it is more difficult as a practical matter to collect delinquent accounts from a female than from a male. The information relayed by collection personnel is that it is difficult to obtain information about females in situations where similar information on males is readily available. For example, if collection personnel interview neighbors or the employer of a female to learn where she works, what she earns, or where she has moved, the response is guarded and limited. The suggestion seems to present itself that third parties will adopt a protective attitude when presented with inquiries from a stranger about a female neighbor or acquaintance. This attitude is, of course, consistent with the societal stereotype of the female as passive and vulnerable. It might be added, conjecturally, that credit collection people, who are most likely males, might dislike exerting pressure upon delinquent debtors who are female.

The above seems an interesting aside, possibly of interest to the behavioral scientist. But it does not present a very persuasive argument for a significant correlation between sex and credit-worthiness. Credit grantors will admit that the purpose of the credit investigation is to determine which applicants will not turn out to be defaulting debtors. However, insofar as the difficulties of collection can be postulated as increasing the cost of credit, it is suggested that this information is, at this stage, too tenuous to admit of a correlation based upon sex. Again, proponents of the status quo appear to be unfairly focusing on sex with nothing more than preconceived notions of behavior to guide them to that point.

The Legal Response

There are presently no adequate legal doctrines which can be expected to afford significant relief to the woman who has been discriminated against by the credit grantor.[23] The present attitude of the courts toward the problems of women as creditors or debtors does not suggest that much can be expected in that arena.[24] Even if the proposed Equal Rights Amendment[25] is adopted by the requisite number of states, it is problematical as to its effect upon the activities of the private credit industry. The necessity for "state action"[26] will permit continued discrimination where there is not the appropriate degree of involvement of state laws. While it might be argued that the pervasive regulation of the consumer credit industry[27] indicates a high degree of state involvement in the matter, it seems doubtful that the courts would recognize consumer credit as a function which requires constitutional recognition. Assuming that sex discrimination should be eradicated from credit practices, it is a task for legislation.

Legislation recently passed by the Colorado General Assembly[28] is probably representative of recent efforts to legislate equal protection in the granting of credit. The Act is a relatively short and to-the-point statute which amends the Colorado version of the Uniform Consumer Credit Code. The new sections read:

> "73-1-109. *Discrimination prohibited.* No consumer credit sale, consumer lease, or consumer loan regulated by this chapter shall be denied any person, nor shall terms and conditions be made more stringent, on the basis of discrimination solely because of race, creed, religion, color, sex, national origin, or ancestry. This section shall not apply to any consumer credit sale, consumer lease, or consumer loan made or denied by a seller, lessor, or lender whose total original unpaid balances arising from consumer credit sales, consumer leases, and consumer loans for the previous calendar year are less than one million dollars."
>
> "73-5-206. *Civil liability for discrimination.* If a person has failed to comply with section 73-1-109, the person aggrieved by such failure to comply has a right to re-

22. *Id.* Table 12, at 33.
23. By way of contrast, private employers are enjoined from sex discrimination in employment relations. Title VII of the Civil Rights Act of 1964, §§701-716, 42 U.S.C. §§2000e to 2000e-15 (1964), *as amended*, (Supp. V, 1970).
24. *See, e.g., U.S. v. Yazell*, 383 U.S. 341 (1966) wherein the United States Supreme Court refused to accept an argument that a strong federal interest (a loan had been guaranteed by the Small Business Administration) justified overriding a state statute which required a married woman to obtain a court decree removing her disability to contract before she could bind her separate property. The Court said, "We have no federal law relating to the protection of the separate property of married women. We should not here invent one and impose it upon the states, despite our personal distaste for covesture provisions such as those involved in this case." *Id.* at 352-53.
25. Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.
Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
Section 3. This amendment shall take effect two years after the date of ratification.
26. *See* Brown, Emerson, Falk and Freedman, *supra* note 1, at 905-07.
27. *See generally*, B. Curran, TRENDS IN CONSUMER CREDIT LEGISLATION, (1965).
28. "Colo. L. 1973, c. 251." This act adds two new sections to the Colorado version of the Uniform Consumer Credit Code; Colo. Rev'd. Stat. 1963 §§73-1-109 and 73-5-206 (1971 Perm. Cum. Supp.).

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> "73-1-109. *Discrimination prohibited.* No consumer credit sale, consumer lease, or consumer loan regulated by this chapter shall be denied any person, nor shall terms and conditions be made more stringent, on the basis of discrimination solely because of race, creed, religion, color, sex, national origin, or ancestry. This section shall not apply to any consumer credit sale, consumer lease, or consumer loan made or denied by a seller, lessor, or lender whose total original unpaid balances arising from consumer credit sales, consumer leases, and consumer loans for the previous calendar year are less than one million dollars."
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25. Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.
Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
Section 3. This amendment shall take effect two years after the date of ratification.
26. *See* Brown, Emerson, Falk and Freedman, *supra* note 1, at 905-07.
27. *See generally,* B. Curran, TRENDS IN CONSUMER CREDIT LEGISLATION, (1965).
28. "Colo. L. 1973, c. 251." This act adds two new sections to the Colorado version of the Uniform Consumer Credit Code; Colo. Rev'd. Stat. 1963 §§73-1-109 and 73-5-206 (1971 Perm. Cum. Supp.).

§ 415. Grace period for consumers

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) The conditions under which a finance charge may be imposed, including the time period (if any) within which any credit extended may be repaid without incurring a finance charge, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time period."; and

(2) by amending subsection (b)(10) to read as follows:

"(10) The date by which or the period (if any) within which, payment must be made to avoid additional finance charges, except that the creditor may, at his election and without disclosure, impose no such additional finance charge if payment is received after such date or the termination of such period."

§ 416. Effective date

This title takes effect upon the date of its enactment, except that sections 409 and 411 take effect upon the expiration of one year after the date of its enactment.

TITLE V—EQUAL CREDIT OPPORTUNITY

§ 501. Short title

This title may be cited as the "Equal Credit Opportunity Act".

§ 502. Findings and purpose

The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

§ 503. Amendment to the Consumer Credit Protection Act

The Consumer Credit Protection Act (Public Law 90-321), is amended by adding at the end thereof a new title VII:

"TITLE VII—EQUAL CREDIT OPPORTUNITY

"Sec.
"701. Prohibited discrimination.
"702. Definitions.
"703. Regulations.
"704. Administrative enforcement.
"705. Relation to State laws.
"706. Civil liability.
"707. Effective date.

"§ 701. Prohibited discrimination

"(a) It shall be unlawful for any creditor to discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction.

"(b) [redacted] 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.

"§ 702. Definitions

"(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this title.

"(b) The term 'applicant' means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

"(c) The term 'Board' refers to the Board of Governors of the Federal Reserve System.

"(d) The term 'credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.

"(e) The term 'creditor' means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

"(f) The term 'person' means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

"(g) Any reference to any requirement imposed under this title or any provision thereof includes reference to the regulations of the Board under this title or the provision thereof in question.

"§ 703. Regulations

"The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith. Such regulations shall be prescribed as soon as possible after the date of enactment of this Act, but in no event later than the effective date of this Act.

"§ 704. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under:

"(1) Section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency,

"(B) member banks of the Federal Reserve System (other than national banks), by the Board,

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

"(2) Section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

"(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

"(4) The Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

"(5) The Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act.

"(6) The Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

"(7) The Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, and production credit association;

"(8) The Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to brokers and dealers; and

"(9) The Small Business Investment Act of 1958, by the Small Business Administration, with respect to small business investment companies.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law. The exercise of the authorities of any of the agencies referred to in subsection (a) for the purpose of enforcing compliance with any requirement imposed under this title shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

"(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

"§ 705. Relation to State laws

"(a) A request for the signature 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; *Provided, however*, That this provision shall not be construed to permit a creditor to take sex or marital

status into account in connection with the evaluation of creditworthiness of any applicant.

"(b) Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this title.

"(c) Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: *Provided*, That in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.

"(d) When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

"(e) Except as otherwise provided in this title, the applicant shall have the option of pursuing remedies under the provisions of this title in lieu of, but not in addition to, the remedies provided by the laws of any State or governmental subdivision relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

"§ 706. Civil liability

"(a) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant in an amount equal to the sum of any actual damages sustained by such applicant acting either in an individual capacity or as a representative of a class. 15 USC 1691e.

"(b) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than $10,000, as determined by the court, in addition to any actual damages provided in section 706(a): *Provided, however*, That in pursuing the recovery allowed under this subsection, the applicant may proceed only in an individual capacity and not as a representative of a class.

"(c) Section 706(b) notwithstanding, any creditor who fails to comply with any requirement imposed under this title may be liable for punitive damages in the case of a class action in such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not exceed the lesser of $100,000 or 1 percent of the net worth of the creditor. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

"(d) When a creditor fails to comply with any requirement imposed under this title, an aggrieved applicant may institute a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other action.

"(e) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court shall be added to any damages awarded by the court under the provisions of subsections (a), (b), and (c) of this section.

"(f) No provision of this title 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 Board, 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.

"(g) Without regard to the amount in controversy, any action under this title may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

"§ 707. Effective date

"This title takes effect upon the expiration of one year after the date of its enactment.".

15 USC 1691 note.

TITLE VI—DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

FINDINGS

12 USC 2501.

SEC. 601. The Congress finds and declares that—

(1) the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;

(2) a substantial majority of such purchasers reside in the States where such instruments are purchased;

(3) the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;

(4) it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and

(5) the cost of maintaining and retrieving addresses of purchasers of money orders and traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.

DEFINITIONS

SEC. 602. As used in this title—

12 USC 250

(1) "banking organization" means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the United States;

(2) "business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and

(3) "financial organization" means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States.

STATE ENTITLED TO ESCHEAT OR TAKE CUSTODY

12 USC 25

SEC. 603. Where any sum is payable on a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler's check, or similar written instrument was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organizations or business association show the State in which such money order, traveler's check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the escheat or custodial taking of the sum payable on such instrument, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

APPLICABILITY

12 USC 2501 note.

SEC. 604. This title shall be applicable to sums payable on money orders, traveler's checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a State prior to January 1, 1974.

Approved October 28, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 93-751 (Comm. on Banking and Currency) and No. 93-1429 (Comm. of Conference).
SENATE REPORT No. 93-902 (Comm. on Banking, Housing and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 120 (1974):
Feb. 5, considered and passed House.
June 13, considered and passed Senate, amended.
Oct. 9, House agreed to conference report.
Oct. 10, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 10, No. 44:
Oct. 29, Presidential statement.

Exhibit E

DEL WEBB HOTELS

INTERNATIONAL

JESS W. HINKLE
PRESIDENT

April 14, 1975

Mr. Larry Ruvo
President
Best Brands, Inc.
4500 Wynn Road
Las Vegas, Nevada 89103

Dear Larry:

In your recent question concerning my support of the liquor credit control bill, as I understand the proposed law, I believe it will be beneficial to the State of Nevada.

It has always been the policy of our corporation to employ good business practices, including prompt payment of our liquor bills. We firmly believe that prompt payment of of our obligations not only builds good relationship between our corporation and the vendors, but it also allows the vendors to pay their bills, further lending these practices to operational efficiency and lower prices.

Sincerely yours,

Jess W. Hinkle

JWH:jh

GARDUNA
Hotel and Casino
World's Finest Resort

HERB TOBMAN
President

ARGENT CORP. RESORT

LAS VEGAS, NEVADA 89109

(AREA CODE 702) 732-6111

April 11, 1975

Mr. Larry Ruvo
President
Best Brands, Inc.
4500 Wynn Road
Las Vegas, Nevada 89103

Dear Larry:

I have reviewed the draft legislation proposed by the Nevada wholesale liquor dealers to control extension of credit in wholesale liquor transactions.

I note that the legislation would have no effect on any retail licensee unless, he should fail to pay for liquor within 45 days of delivery. As you know, our business practice is to pay liquor bills no later than one month from delivery. Therefore, the bill would not affect us and we have no reason to oppose it.

If anything, we would benefit from passage of the bill. At present, a competitor who is successful in exacting extensions of credit for liquor of up to 90 days or more is, in effect, being bankrolled by the wholesaler to unfairly compete with us.

Sincerely,

Herb Tobman
President

HT/bab

Mr. W. W. Beckmann
Vice President/General Manager
Luce & Son, Inc.
PO Box 2287
Reno, Nevada 89505

Dear Mr. Beckmann,

As you requested, I have studied the liquor credit control bill with an eye toward any detrimental effect on retail licensees.

I see no reason for opposition by the retail liquor industry.

Sincerely,

Joseph R. Zeltoony

Family Liquor Store
16 E. 2nd
Reno, Nevada

Mr. Larry Ruvo
Best Brands, Inc.
4500 Wynn Road
Las Vegas, Nevada 89103

Dear Larry:

I will be pleased to support the liquor credit control bill. Such a law is long overdue in Nevada.

Any retail licensee who employs good business practices should realize he benefits from passage of the law. For example, we pay our liquor bills promptly and the bill would not have any application to us whatsoever. At the same time, however, there are retail operations who play off one wholesaler against another to get credit of 90 days or more. The result is that they are being indirectly financed by wholesalers to compete with retailers who pay their bills on time. Further, when one of those retailers goes into bankruptcy, the wholesalers suffer a loss of several thousands of dollars. I suspect these losses cause higher prices in future sales to retailers in order to compensate.

You may encounter some retail opposition because of a misunderstanding of the bill. If so, I will be pleased to help correct that misunderstanding.

Sincerely,

Hilts Salon

3570 LAS VEGAS BOULEVARD, SOUTH
LAS VEGAS, NEVADA 89109
AREA CODE 702-734-7110

April 11, 1975

Mr. Larry Ruvo
Best Brands, Inc.
4500 Wynn Road
Las Vegas, Nevada 89103

Dear Larry:

We have no objection to the liquor credit legislation.

The credit policies we presently follow in the wholesale purchase of wine, liquor and beer would not be in conflict with those allowed by the bill.

Thank you for providing an explanation of your legislative program.

Cordially,

CAESARS PALACE

William S. Weinberger

William S. Weinberger
President

WSW/rb

Mr. W. W. Beckmann
Vice President/General Manager
Luce & Son, Inc.
PO Box 2287
Reno, Nevada 89505

Dear Mr. Beckmann;

You have requested my reaction to the bill sponsored by the wine, spirits and beer wholesalers to establish limits on credit for beverage sales.

The bill would not cause any problems for us and we see no reason to object to it.

Sincerely,

Bruce B Adams

Arch Drug Company
235 N. Virginia
Reno, Nevada

Mr. W. W. Beckmann
Vice President/General Manager
Luce & Son, Inc.
PO Box 2287
Reno, Nevada 89505

Dear Mr. Beckmann,

This is in response to your request for a written statement of my position on the liquor credit control bill which has been proposed by the Wine and Spirits Wholesalers of Nevada and the Nevada Beer Wholesalers Association.

I favor passage of the bill by the state legislature.

Wholesalers and reputable retail dealers alike would benefit from such a law. It would stop the practice of a few retailers from financing their operations through long-term credit from wholesalers and also from extending themselves beyond their financial resources. When the first happens, this means unfair competition for retailers who pay their liquor bills on time. When the second happens, bankruptcy often is the result along with substantial losses by the wholesalers. The latter can mean higher prices to the remaining retailers.

You have my best wishes for success.

Cordially,

W W Middleton

Hilton Pharmacy
680 Mt. Rose St.
Reno, Nevada 89502

Rich's

ACROSS FROM
JOHN ASCUAGA'S NUGGET

DISCOUNT LIQUORS

P. O. BOX 455, SPARKS, NEVADA 89431
(702) 359-6292

March 26, 1975

Mr. W.W. Beckmann
Vice President-General Manager
Luce & Son, Inc.
P.O. Box 2287
Reno, Nevada 89505

Dear Walt:

I have reviewed the draft legislation proposed by the Nevada Wholesale Liquor Dealers to control extension of credit in all wholesale liquor transactions.

This legislation would have no effect on any retail licensee unless he should fail to pay for liquor within 45 days of delivery. As you know, our business practice is to pay all liquor bills no later than a month from delivery. Therefore, the bill would not affect us and we have no reason to oppose it.

If anything, we would benefit from it's passage. At present, a competitor who is successful in exacting extensions of credit for liquor of up to 90 days or more is, in effect, being bankrolled by the wholesaler, and is unfairly competing with us.

We, therefore, extend our support for passage of this bill.

Yours very truly,

RICH'S DISCOUNT LIQUORS

Rich Graves

Richard L. Graves, Jr.
President

RLGJ:dp

Exhibit F

Mr. W. W. Beckmann
Vice President/General Manager
Luce & Son, Inc.
PO Box 2287
Reno, Nevada 89505

Dear Mr. Beckmann;

I have reviewed the draft legislation proposed by the Nevada wholesale liquor dealers to control extension of credit in wholesale liquor transactions.

I note that the legislation would have no effect on any retial licensee unless he should fail to pay for liquor within 45 days of delivery. As you know our business practice is to pay liquor bills no later than a month from delivery. Therefore, the bill would not affect us and we have no reason to oppose it.

If anything, we would benefit from passage of the bill. At present, a competitor who is successful in exacting extensions of credit for liquor of up to 90 days or more is, in effect, being bankrolled by the wholesaler to unfairly compete with us.

Sincerely,

Fallon & Fallon
By D. Fallon

Fallon & Fallon Concessions
1375 Princess Ave.
Reno, Nevada 89502

Mr. Louis Peraldo
L.W. Peraldo Co., Inc.
405 West 3rd Street
Winnemucca, Nevada 89445

Dear Louie:

This is in response to your request for a written statement of my position on the liquor credit control bill which has been proposed by the Wine and Spirits Wholesalers of Nevada and the Nevada Beer Wholesalers Association.

I favor passage of the bill by the state legislature.

Wholesalers and reputable retail dealers alike would benefit from such a law. It would stop the practice of a few retailers from financing their operations through long-term credit from wholesalers and also from extending themselves beyond their financial resources. When the first happens, this means unfair competition for retailers who pay their liquor bills on time. When the second happens, bankruptcy often is the result along with substantial losses by the wholesalers. The latter can mean higher prices to the remaining retailers.

You have my best wishes for success.

Sincerely,

Russell McIntosh
Winnemucca Motel
Rest.

Mr. Louis Peraldo
L,W. Peraldo Co., Inc.
405 West 3rd Street
Winnemucca, Nevda 89445

Dear Louie:

As you requested, I have studied the liquor credit control bill with an eye toward any detrimental effect on retail licensees.

I see no reason for opposition by the retail liquor industry.

Sincerely,

Boyle Wheeler

MOTEL WINNEMUCCA

Mr. Louis Peraldo
L.W. Peraldo Co., Inc.
405 West 3rd Street
Winnemucca, Nevada 89445

Dear Louie:

I enjoyed the discussion of the move by the wine, spirits and malt beverages industry to persuade the legislature to adopt new credit restrictions on wholesal sales.

This is to confirm my endorsement of your bill.

If the federal government and more than 40 states already have adopted such legislation, I fail to see any argument against our state doing likewise.

Certainly our hotel has no reason to object to the bill.

Best Wishes,

Miguel O. Lanz

Winnemucca Hotel
95 Bridge Winnemucca

Mr. Louis Peraldo
L.W. Peraldo Co., Inc.
405 West 3rd Street
Winnemucca, Nevada 89445

Dear Louie:

You have requested my reaction to the bill sponsored by the wine, spirits and beer wholesalers to establish limits on credit for beverage sales.

The bill would not cause any problems for us and we see no reason to object to it.

Sincerely,

Gary Bengochea
Gary's Uptown Mkt
1200 South Bridge
Winnemucca, Nevada

Mr. Louis Peraldo
L.W. Peraldo Co., Inc.
405 West 3rd Street
Winnemucca, Nevada 89445

Dear Louie:

We have no objection to the liquor credit legislation.

The credit policies we presently follow in the wholesale purchase of wine, liquor and beer would not be in conflict with those allowed by the bill.

Thank you for providing an explanation of your legislative program.

Cordially,

Bob Miller
Market Spot
44 Rail Road St.
Winnemucca, Nevada

Mr. Louis Peraldo
L.W. Peraldo Co., Inc.
405 West 3rd Street
Winnemucca, Nevada 89445

Dear Louie:

I have reviewed the draft legislation proposed by the Nevada wholesale liquor dealers to control extension of credit in wholesale liquor transactions.

I note that the legislation would have no effect on any retail licensee unless he should fail to pay for liquor within 45 days of delivery. As you know our business practice is to pay liquor bills no later than a month from delivery. Therefore, the bill would not affect us and we have no reason to oppose it.

If anything, we would benefit from passage of the bill. At present, a competitor who is successful in exacting extensions of credit for liquor of up to 90 days or more is, in effect, being bankrolled by the wholesaler to unfairly compete with us.

Sincerely,

R. J. Slagle

Crazy Corners
Lawlock, Nevada

Mr. Louis Peraldo
L.W. Peraldo Co., Inc.
405 West 3rd Street
Winnemucca, Nevada 89445

Dear Louie:

You have requested my reaction to the bill sponsored by the wine, spirits and beer wholesalers to establish limits on credit for beverage sales.

The bill would not cause any problems for us and we see no reason to object to it.

Sincerely,

Sturgeons Log Cabin
Lovelock, Nevada
Osma Gerhart

Mr. Louis Peraldo
L.W. Peraldo Co., Inc.
405 West 3rd Street
Winnemucca, Nevada 89445

Dear Louie:

I will be pleased to support the liquor credit control bill. Such a law is long overdue in Nevada.

Any retail licensee who employs good business practices should realize he benefits from passage of the law. For example, we pay our liquor bills promptly and the bill would not have any application to us whatsoever. At the same time, however, there are retail operations who pay off one wholesaler against another to get credit of 90 days or more. The result is that they are being indirectly financed by wholesalers to compete with retailers who pay their bills on time. Further, when one of those retailers goes into bankruptcy, the wholesalers suffers loss of several thousands of dollars. I suspect these losses cause higher prices in future sales to retailers in order to compensate.

You may encounter some retail opposition because of a misunderstanding of the bill. If so, I will be pleased to help correct that misunderstanding.

Sincerely,

Charles E Jones
Midway Cafe
P.O. Box 5
Imlay, Nevada
89418

Mr. Louis Peraldo
L.W. Peraldo Co., Inc.
405 West 3rd Street
Winnemucca, Nevada 89445

Dear Louie:

You have requested my reaction to the bill sponsored by the wine, spirits and beer wholesalers to establish limits on credit for beverage sales.

The bill would not cause any problems for us and we see no reason to object to it.

Sincerely,

Blair Johnson
Kirks Market
147 Bridge St
Winnemucca, Nevada

Mr. Larry Ruvo
Best Brands, Inc.
4500 Wynn Road
Las Vegas, Nevada 89103

Dear Larry:

You have requested my reaction to the bill sponsored by the wine, spirits and beer wholesalers to establish limits on credit for beverage sales.

The bill would not cause any problems for us and we see no reason to object to it.

Sincerely,

Bert J. Gensted

Owner
Panorama Market
4101 W. Charleston Blvd.
Las Vegas Nevada 89102

Mr. W. W. Beckmann
Vice President/General Manager
Luce & Son, Inc.
PO Box 2287
Reno, Nevada 89505

Dear Mr. Beckmann;

You have requested my reaction to the bill sponsored by the wine, spirits and beer wholesalers to establish limits on credit for beverage sales.

The bill would not cause any problems for us and we see no reason to object to it.

Sincerely,

RW Bates Mini mart #5 900 Yori Ave

R. W. Bates
Mini Mart # 5
900 Yori Ave.
Reno, Nevada 89502

Mr. W. W. Beckmann
Vice President/General Manager
Luce & Son, Inc.
PO Box 2287
Reno, Nevada 89505

Dear Mr. Beckmann;

This is in response to your request for a written statement of my position on the liquor credit control bill which has been proposed by the Wine and Spirits Wholesalers of Nevada and the Nevada Beer Wholesalers Association.

I favor passage of the bill by the state legislature.

Wholesalers and reputable retail dealers alike would benefit from such a law. It would stop the practice of a few retailers from financing their operations through long-term credit from wholesalers and also from extending themselves beyond their financial resources. When the first happens, this means unfair competition for retailers who pay their liquor bills on time. When the second happens, bankruptcy often is the result along with substantial losses by thewholesalers. The latter can mean higher prices to the remaining retailers.

You have my best wishes for success.

Sincerely,

Calif Ave Market
Charles T. Bradley Pres.
340 California Ave.
Reno, Nv. 89502

Mr. W. W. Beckmann
Vice President/General Manager
PO Box 2287
Reno, Nevada 89505

Dear Walt,

I will be pleased to support the liquor credit control bill. Such a law is long overdue in Nevada.

Any retail licensee who employs good business practices should realize the benefits from passage of the law. For example, we pay our liquor bills promptly and the bill would not have any application to us whatsoever. At the same time, however, there are retail operations who play off one wholesaler against another to get credit of 90 days or more. The result is that they are being indirectly financed by wholesalers to compete with retailers who pay their bills on time. Further, when one of those retailers goes into bankruptcy, the wholesalers suffer a loss of several thousands of dollars. I suspect these losses cause higher prices in future sales to retailers in order to compensate.

You may encounter some retail opposition because of a misunderstanding of the bill. If so, I will be pleased to help correct that misunderstanding.

Sincerely,

Gerald Pigg

Leo Meat Block
1133 So Virginia St
Reno Nev. 89502

Exhibit G

NEVADA WHOLESALERS

FEBRUARY 20, 1975

Beacon Distributing Co.
(Branch of Berberian Bros., Inc.,
Fresno, California)
A. Senini, Gen'l. Mgr.
2400 No. Valley Road 89502
P. O. Box 2459, 89505
Reno
Tel: (702) 323-3101

Best Brands, Inc.
Richard Gordon,
Chairman of Board
Larry Ruvo-Pres. & Gen. Mgr.
Al Dolan, Mktg. Mgr.
4500 Wynn Road 89103
Las Vegas
Tel: (702) 876-4500

Best Brands, Inc.
(Branch of Best Brands, Inc.,
Las Vegas, Nevada)
Stu Shandalove, Vice Pres./
Sales
C. O. Watson, Vice Pres./
Gen. Mgr.
1007 Greg St., 89431
Reno
Tel: (702) 358-1811

Bonanza Beverage Co.
William Cosulas, President
William Gialketsis, Vice-Pres.
Virginia Cosulas, Sec'y & Treas.
2670 So. Western St. 89109
Las Vegas
Tel: (702) 735-1062

J. W. Costello Beverage Co.
Jim Costello, President
Mrs. Veda Costello, Exec. Vice-Pres.
Delbert Poulain, Sec'y. & Treas.
4370 S. Valley View Blvd.
P. O. Box 14950, 89114
Las Vegas
Tel: (702) 876-4000

D&D Wholesale
Liquors, Inc.
(Branch of Haas Bros.,
San Francisco, California)
Richard J. Gipe, Vice-Pres., &
Sales Mgr.
330 Evans Ave. 89507
P. O. Box 436, 89504
Reno
Tel: (702) 323-5135

De Luca Importing Co., Inc.
R. S. Keyser, Pres. & Gen'l. Mgr.
C. R. Clark, Sr. Vice-Pres.
Joe Slaton, Jr., Sales Mgr.
Pete Birrell, Wine Sales Mgr.
2548 W. Desert Inn Rd. at
Highland, 89109
P. O. Box 14870, 89114
Las Vegas
Tel: (702) 735-9141

Glenn Distributing, Inc.
Chas. S. Glenn, President
Alan G. Blach, Vice-Pres.
Mary F. Glenn, Sec'y. & Treas.
131 Main St., 89801
P. O. Box 269, 89801
Elko
Tel: (702) 738-5147

Glenn Distributing, Inc.
(Branch of Glenn Distributing,
Elko, Nevada)
Alfred M. Kerr, Mgr.
P. O. Box 509, 89301
Ely
Tel: (708) 289-4443

Las Vegas Distributing Co.
Charles M. Hecht, President
David J. Cohen, Sec'y.
Charles J. Bufalino, Sales Mgr.
4325 Alde Baran Ave., 89103
P. O. Box 1810, 89101
Las Vegas
Tel: (702) 739-6767

Luce & Son, Inc.
Delpha Cherry Luce, Pres.
W. W. Beckmann, Vice-Pres. & Gen'l Mgr.
Ray E. Armstrong, Treas.
Robert J. Smeath, Sec'y.
E. A. Meyer, Off. Mgr.
Ted Gelber, Beer Dept. Mgr.
Patrick McLaughlin, Wine Dept. Mgr.
Jack C. McCoy, Liquor Dept., Sales Mgr.
670 E. 6th St., 89502
P. O. Box 2287, 89505
Reno
Tel: (702) 322-3486

McKesson Wine & Spirits Co.
(Branch of McKesson Wine & Spirits Co., New York, New York)
Edward Dufrene, Gen'l. Mgr.
271 So. Highland Dr.
P. O. Box 4247, 89106
Las Vegas
Tle: (702) 382-6316

McKesson Wine & Spirits Co.
(Branch of McKesson Wine & Spirits Co., New York, New York)
Eugene L. Wilson, Gen'l. Mgr.
1790 West 4th St., 89503
P. O. Box 5667, Washington Sta., 89503
Reno
Tel: (702) 323-6181

Nevada Beverage Co.
C. R. Pat Clark, President
Barry J. Helfand, Exec. Vice-Pres. & Gen'l. Mgr.
R. S. Keyser, Senior Vice-Pres.
Walter E. Holstad, Vice-Pres. & Adm. Ass't.
J. LaMarr Bennett, Sec'y. & Treas.
2416 W. Desert Inn Road at Highland, 89101
P. O. Box 14787, 89114
Las Vegas
Tel: (702) 735-1185

L. W. Peraldo Co., Inc.
Louis Peraldo, President
Joseph Quilici, Vice-President
Margaret H. Peraldo, Sec'y. & Treas.
405 West 3rd. St., 89445
P. O. Box 272, 89445
Winnemucca
Tel: (702) 623-2553

Sierra Wine & Liquor Co.
P. C. Barengo, President
Thelma M. Barengo, Vice-Pres.
Milton J. Gumbert, Vice-Pres. & Gen'l. Sales Mgr.
W. A. Davidson, Sec'y. & Treas.
325 East Fourth St., 89502
P. O. Box 2979, 89505
Reno
Tel: (702) 323-1366

Sierra Wine & Liquor Co.
(Branch of Sierra Wine & Liquor Co., Reno, Nevada)
Norman Hines, Mgr.
290 Barengo Way, 89801
P. O. Box 1192, 89801
Elko
Tel: (702) 738-5160

Sierra Wine & Liquor Co.
(Branch of Sierra Wine & Liquor Co., Reno, Nevada)
Joaquin M. Gomez, Mgr.
710 Avenue F., 89315
East Ely
P. O. Box 268, 89301
Ely
Tel: (702) 289-4747

Sierra Wine & Liquor Co.
(Branch of Sierra Wine & Liquor Co., Reno, Nevada)
Louis H. Mendiola, Mgr.
423 Bridge St., 89445
P. O. Box 1067, 89445
Winnemucca
Tel: (702) 623-2584

Capital Beverages, Inc.
Mr. J. A. Martin
Mr. Joe Brown
P. O. Box 997

Elko Bottling Co.
Mr. C. B. Handwright
P. O. Box 711
Elko, Nevada 89801

Mr. J. A. Laxague
Laxague Distributors
P. O. Box 120
East Ely, Nevada 89301

Mr. Larry Christensen
Nevada Distributing, Co.
P. O. Box 1238
Ely, Nevada 89301

Mr. Al McGrath
Nevada Distributing Co.
P. O. Box 1238
Ely, Nevada 89301

Mr. Dan Hickey
Hickey Distributing Co.
P. O. Box 577
Minden, Nevada 89423

Mr. J. J. Morrey
Morrey Distributing Co.
1250 Terminal Way
Reno, Nevada 89502

Mr. F. F. Knafele
O. K. Distributors, Inc.
P. O. Box 904
Reno, Nevada 89504

Mr. Chuck Ketcham
Harrison Distributing, Inc.
P. O. Box 5897
Reno Sparks, Nevada 89503

Mr. J. E. Digrazia
Digrazia Wholesale Distributors
P. O. Box 175
Wells, Nevada 89835

Mr. Ronald Peraldo
Winneva Distributing Co.
P. O. Box 305
Winnemucca, Nevada 89445

Exhibit H

553

UNIVERSITY OF NEVADA · RENO
RENO, NEVADA 89507

COLLEGE OF BUSINESS ADMINISTRATION
Office of the Dean
(702) 784-4912

April 14, 1975

Mr. Gene Milligan
Executive Vice President, Nevada Association of Realtors
P.O. Box 7332
Reno, NV 89502

Dear Mr. Milligan:

The definition of "College Level Courses" as it appears in NRS 645.343, Subsection 10, to wit, "For the purposes of this section, "College Level Courses" are courses offered by any accredited college or university which fulfill baccalaureate degree requirements," is considered satisfactory from the standpoint of the University of Nevada, Reno.

The decision as to which courses would meet this description would be left to the Real Estate Department which we consider a very wise provision.

Sincerely,

ROBERT C. WEEMS, JR.
Dean

hc

Exhibit I

To: Senate Commerce Committee
Nevada State Legislature

From: Carl F. Fuetsch
Nevada Real Estate Advisory Commission

The Nevada Real Estate Advisory Commission met in Las Vegas on Friday, April 11, 1975, and reviewed the proposed legislation concerning the definition of "college level courses" as appears in SB 514; to wit: "college level courses are courses offered by any accredited college or university and which fulfill baccalaureate degree requirements". The Advisory Commission approves and endorses this proposed legislation and recommends favorable action by the Senate Commerce Committee.

Carl F. Fuetsch

Exhibit J

COMMUNITY COLLEGE DIVISION

Office of the President

555

April 15, 1975

Mr. Gene Milligan
Executive Vice President
Nevada Association of Realtors
Legislative Building, Room 301
Carson City, Nevada 89701

Dear Gene:

The Community College Division endorses the concept of professionalizing the real estate field. The definition of college level courses as proposed is satisfactory provided that it is read into the record and accepted that courses taught by the Nevada Community College System are approved if they are transferable to any accredited college or university which offers a baccalaureate degree.

Northern Nevada Community College is accredited; Clark County Community College and Western Nevada Community College have been granted candidate status which, under the proposed definition, should be deemed as acceptable also.

Sincerely,

Charles Donnelly

Charles Donnelly
President

nh

405 Marsh Avenue Reno, Nevada 89502 (702) 784-4021

Attachment I

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 if they are living together for the purpose of extending credit to such married couple and shall not exclude the income of either without just cause. 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 2

REMARKS OF GRANT SAWYER

RE: SB-511

561

BEFORE SENATE COMMITTEE ON COMMERCE AND LABOR

SB-511 IS A BILL TO AMEND CHAPTER 369 OF NEVADA REVISED STATUTES RELATING TO IN_ TOXICATING LIQUOR LICENSES AND TAXES. IT IS DESIGNED TO: (1) BRING NEVADA INTO LINE WITH THE MAJORITY OF OTHER STATES WHICH HAVE FOUND IT IN THE BEST INTEREST OF THE PUBLIC AND THE LIQUOR INDUSTRY TO REGULATE SALES OF SPIRITS, WINES AND MALT BEVERAGES ON CREDIT; (2) PROHIBIT CREDIT FROM BEING UTILIZED AS AN UNFAIR BUSINESS PRACTICE IN THE NEVADA LIQUOR INDUSTRY; AND (3) TO ENHANCE THE ECONOMIC STABILITY OF THE INDUSTRY.

THE CONGRESS OF THE UNITED STATES AND LEGISLATURES OF EVERY STATE AND THE DISTRICT OF COLUMBIA EXCEPT NEVADA HAVE RECOGNIZED THAT LEGISLATION IN THIS AREA IS NECESSARY IN ORDER TO PREVENT ABUSES. 45 STATES AND THE DISTRICT OF COLUMBIA HAVE PASSED SPECIFIC LEGISLATION HAVING TO DO WITH THE EXTENSION OF CREDIT. 27 OF THESE 45 STATES PROHIBIT THE EXTENSION OF ANY CREDIT AT ALL AND REQUIRE ALL WHOLESALE DELIVERIES TO BE FOR CASH ONLY. OF THE REMAINING FIVE STATES, THAT HAVE PASSED LEGISLATION BUT LEGISLATION NOT GOING SPECIFICALLY TO THE EXTENSION OF CREDIT, HOWEVER TO THE SAME GENERAL THRUST. THREE OF THOSE HAVE STATUTES WHICH PROHIBIT WHOLESALERS FROM HAVING A FINANCIAL INTEREST IN, OR SUBSIDIZING A RETAILER, OR PROHIBIT A RETAILER FROM BEING INDEBTED TO A WHOLESALER.

ONE STATE, COLORADO, HAS A STATUTE WHICH EMPOWERS THE LIQUOR AUTHORITY TO REGULATE CREDIT SALES, BUT THAT AUTHORITY HAS NOT YET ENACTED REGULATIONS. IT IS ASSUMED THEY WILL BECAUSE LEGISLATION HAS BEEN PROVIDED GIVING THEM THAT POWER. THE ONLY STATE SILENT AS TO CONTROL OR MONOPOLISTIC PRACTICES IS THE STATE OF NEVADA.

THE ABUSES IN THE INDUSTRY HAVE THEREFORE BEEN RECOGNIZED AS A NATIONAL PROBLEM AND STEPS HAVE BEEN TAKEN TO CORRECT THAT PROBLEM IN EVERY STATE BUT OURS. I HAVE A STATE-BY-STATE ANALYSIS SHOWING, I BELIEVE, THE STATUS OF THE LEGISLATION IN EVERY STATE OF THE UNITED STATES. WITH YOUR PERMISSION, MR. CHAIRMAN, I'LL FILE THAT WITH THE SECRETARY AND PROVIDE COPIES FOR ALL THE MEMBERS OF YOUR COMMITEE.

THE PROBLEM, AS I UNDERSTAND IT, AND THE MEMBERS OF THE INDUSTRY UNDERSTAND IT, APPEARS TO BE THIS: SOME WHOLESALERS, PARTICULARLY THE LARGE COMPANIES, WELL FINANCED,

HAVE ENCOURAGED THE PURCHASE OF LIQUOR BY RETAILERS ON CREDIT. AS THE DEBT FROM THE RETAILER TO WHOLESALER INCREASES, THE WHOLESALER TENDS TO ASSUME MORE AND MORE CONTROL OVER THE CONDUCT OF THE RETAILERS BUSINESS, OFTEN TO THE POINT WHERE THE WHOLESALER IS DICTATING TO THE RETAILER WHAT PRODUCTS HE HANDLES, PREFERABLY MINE, HIS ACCOUNTING AND OTHER BUSINESS PRACTICES. HE GRADUALLY ASSUMES SUBSTANTIAL CONTROL OVER THE RETAILER BUSINESS OPERATION BECAUSE OF THE LEVERAGE OF THE INDEBTEDNESS. A STRONG HEAVILTY FINANCED WHOLESALER BY ENCOURAGING THE EXTENSION OF CREDIT TO NUMEROUS RETAILERS MAY THEN UNTIMATELY ACHIEVE A VIRTUAL MONOPOLY IN A SMALL COMMUNITY, FOR EXAMPLE. HE IS IN SO HEAVY TO EVERY RETAILER IN HIS COMMUNITY, WHICH IS ENTIRELY PROBABLE, THEN HE HAS MUCH TO SAY ABOUT THE CONDUCT OF THE ENTIRE RETAIL BUSINESS IN THAT AREA. THIS, IN THE JARGON OF THE INDUSTRY, IF CALLED A "TIED HOUSE." THE RETAILER BEING TIED TO THE WHOLESALER.

RETAILERS IN A SITUATION WHERE THIS IS AN EASY ESTENTION OF CREDIT, IN FACT, ENCOURAGEMENT OF CREDIT BY WHOLESALERS, OFTEN BEING TO PLAY ONE WHOLESALER AGAINST ANOTHER. THEY BECOME MORE HEAVILY IN DEBT. THE COST OF BUSINESS INCREASES. THE WHOLESALERS BEGIN TO COMPETE. THE RETAILERS ARE JOCKEYING BETWEEN THE WHOLESALERS. AS A RESULT, THIS ULTIMATELY RESULTS IN AN INCREASE IN BUSINESS COSTS AND THEREFORE, AN INCREASE IN PRICES. EASY CREDIT ENCOURAGES EXCESSES ON BOTH SIDES. THE DEEPER THE RETAILER GETS INTO THE WHOLESALER, THE MORE ANXIOUS HE IS TO KEEP THE RETAILER IN BUSINESS, PARTICULARLY IN A QUESTIONABLE BUSINESS. TJE FURTHER IN HE GETS, THE MORE CREDIT HE EXTENDS SO THAT THE RETAILER WILL GO OUT OF BUSINESS. THE RETAILER ON THE OTHER HAND, REQUIRES MORE CREDIT. EVENTUALLY, THE RETAILER, IN A MARGINAL BUSINESS, GOES UNDER. THE WHOLESALER IS NOT PAID. THE STATE OF NEVADA RECEIVES ITS TAXES, WHICH IT GETS ON THE FRONT END AND THAT IS THE END OF A SAD SITUATION. ALL THIS OCCURRED BECAUSE THERE IS NO REGULATION. I THINK KING'S CASTLE, ALL OF WHICH YOU ARE FAMILIAR WITH, IS THE BEST RECENT EXAMPLE OF THAT SITUATION.

THE PRACTICE AND THE ABUSES HAVE BECOME SUCH A NATIONAL PHENOMENA AND SO FLAGRANT AND DAMAGING TO THE PUBLIC WELFARE THAT IT HAS BEEN APPARENT ON THE CONGRESSIONAL LEVEL AND EVERY STATE LEVEL THAT REGULATORY LEGISLATION IS REQUIRED.

THE STATUTES AND REGULATIONS ENACTED THROUGHOUT THE COUNTRY VARY, AS YOU WILL NOTICE

LOOKING AT THE ANALYSIS, COVER THE SPECTRUM. SB-511, THE LIQUOR CREDIT LAW PROPOSED FOR NEVADA, PROHIBITS A WHOLESALE DEALER FROM SELLING LIQUOR TO A RETAIL LICENSEE EXCEPT FOR CASH OR ON TERMS CALLING FOR RECEIPT OF PAYMENT BY THE 10TH DAY OF THE MONTH FOLLOWING DELIVER. WHILE THE WHOLESALERS CREDIT TERMS TO THE RETAIL LICENSEE MUST PROVIDE FOR PAYMENT BY THE 10TH DAY OF THE MONTH FOLLOWING DELIVER, THE RETAIL LICENSEE IS ALLOWED A GRACE PERIOD OF AN ADDITIONAL FIVE DAYS. SO YOU ARE REALLY TALKING ABOUT FIFTEEN DAYS BEFORE HE BECOMES DELINQUENT FOR NON-PAYMENT. SO LONG AS A RETAIL LICENSEE IS DELINQUENT IN ITS ACCOUNT WITH A SPECIFIC WHOLESALER, ANY FUTURE SALES OF SPIRITS, WINES AND MALT BEVERAGES BY THE PARTICULAR WHOLESALER TO THAT PARTICULAR RETAIL LICENSEE MUST BE ON A CASH ON DELIVERY BASIS. A RETAIL LICENSEE BECOMES DELINQUENT IN PAYMENT ON THE 15TH DAY OF THE MONTH. ON THE 15TH DAY THAT WHOLESALER WHO HAS EXTENDED THE CREDIT, MUST ASSESS 1 AND 1/2% SERVICE CHARGE ON THE AMOUNT OVERDUE AND CONTINUE TO ASSESS THAT MONTHLY UNTIL THAT ACCOUNT IS PAID. NO FURTHER CREDIT MAY BE EXTENDED UNTIL THAT ACCOUNT HAS BEEN PAID.

THE WHOLESALE DEALER WHO VIOLATES THE LAW WOULD BE SUBJECT TO PENALTIES BY THE NEVADA TAX COMMISSION RANGING FROM A FINE OF $500 FOR THE FIRST VIOLATION IN ANY 24 MONTH PERIOD TO $5,000 AND LICENSE SUSPENSION FOR A THIRD VIOLATION IN ANY 24 MONTH PERIOD.

THE PROPOSED LEGISLATION IS SIMPLER IN CONCEPT THAN THAT IN OTHER STATES IN THAT IT PLACES NO GREAT ADMINISTRATIVE BURDEN ON THE LICENSING AUTHORITY AND DOES NOT RESTRICT TRADE IN THE EVENT OF A LEGITIMATE DISPUTE OVER A BILL. I MEAN BY THAT IF A RETAILER SAYS "I'M NOT GOING TO PAY YOU BECAUSE I DON'T OWE YOU. YOU BILLED ME BY MISTAKE OR YOU OVERBILLED ME." THIS DOES NOT RESTRICT THAT RETAILER FROM CONTINUTING TO DO BUSINESS WITH ALL OTHER WHOLESALERS. ITS JUST A MATTER BETWEEN THOSE TWO INDIVIDUALS.

SOME CONCERN HAS BEEN EXPRESSED TO ME ABOUT THE PHILOSOPHY OF LEGISLATIVE REGULATION OF PRIVATE BUSINESS ENTERPRISES. I UNDERSTAND THAT AND APPRECIATE THAT CONCERN. THE FACT IS, HOWEVER, THAT THE LIQUOR INDUSTRY IS A PRIVILEGED LICENSED INDUSTRY. A WHOLESALER, FOR EXAMPLE, MUST HAVE A LICENSE FROM THE FEDERAL GOVERNMENT, FROM THE STATE OF NEVADA, AND FROM HIS LOCAL JURISDICTION. IS HAS LONG BEEN RECOGNIZED THAT SUCH PRIVILEGED INDUSTRIES OFTEN REQUIRE A REGULATION IN THE PUBLIC INTEREST. IN NEVADA, GAMBLING IS

THE MOST DRAMATIC EXAMPLE OF SUCH REGULATION. THE COURTS HAVE FACED THE QUESTION OF LEGITIMACY OF CREDIT CONTROL IN THE LIQUOR INDUSTRY TIME AND TIME AGAIN IN RELATION TO THE FEDERAL STATUTE AND THE VARIOUS STATE STATUTES. THE RATIONALE AS TO THE CONSITTUTIONALITY INDEED THE NECESSITY OF SUCH REGULATION HAS BEEN ARTICULATED BY COUNTLESS COURTS. IF I MAY, I WOULD LIKE TO READ TO YOU FROM ONE CASE ONLY WHICH I BELIEVE TYPIFIES THE KIND OF LANGUAGE THAT CAN BE FOUND IN VIRTUALLY ALL OTHER CASES WITH RESPECT TO THIS MATTER. IN 1951 THE SUPREME COURT OF FLORIDA ISSUED AN OPINION IN THE CASE OF PICKERILL VS. SCHOTT AND STATED AS FOLLOWS:

"THE MANUFACTURERS, WHOLESALERS OR DISTRIBUTORS COULD EXERCISE CONTROL BY THE GRANTING OR WITH-HOLDING OF CREDIT TO RETAILERS JUST AS EFFECTIVELY AS THEY COULD BY THE ACTUAL LENDING OF MONEY TO THE RETAILERS OR THE INVESTMENT OF MONEY IN THE RETAILER'S BUSINESS. THE CALLING OF LOANS, THE EXTENSION OR THE GRANTING OF CREDIT MAY BE JUST AS POWERFUL IN EXERCISING CONTROL AS THE ACTUAL OWNERSHIP OF A CONTROLLING INTEREST IN A RETAIL BUSINESS, OR THE LENDING OF MONEY TO ESTABLISH OR OPERATE SUCH BUSINESS.

IT WAS NOT THE PURPOSE OR THE INTENT OF THE ACT TO GRANT A SPECIAL PRIVILEGE TO WHOLESALERS, MANUFACTURERS, OR DISTRIBUTORS DENIED TO OTHERS BUT IT WAS TO PREVENT AS FAR AS POSSIBLE BY REGULATION AN EVIL WHICH EXISTED, AND THE LEGISLATURE HAS DETERMINED THAT THIS REGULATION IS IN THE PUBLIC INTEREST AND IS A PROPER EXERCISE OF THE POLICE POWER. THERE IS NOTHING UNREASONABLE OR ARBITRARY ABOUT THIS REGULATION, AND THERE WAS NO ABUSE OF LEGISLATIVE DISCRIMINATION.

SIMILAR LEGISLATION HAS BEEN ADOPTED IN THE STATE OF ALABAMA, ARIZONA, KANSAS, CALIFORNIA, COLORADO, CONNECTICUT, DELEWARE, IDAHO, ILLINOIS, INDIANA, IOWA, NEW JERSEY, NEW MEXICO, NEW YORK, OHIO, PENNSYLVANIA, RHODE ISLAND, SOUTH DAKOTA, TENNESSEE, TEXAS AND WISCONSIN. THIS WAS IN 1951, SINCE THAT TIME ALL OTHER STATES. ONE OF THE BEST REASONED OPINIONS ON THIS QUESTION WILL BE FOUND IN THE CASE OF WEISBERG VS. TAYLOR, 100 N.D. (2d.) 748, DECIDED BY THE ILLINOIS SUPREME COURT IN JUNE, 1951. IN THAT CASE THE COURT SAID:

"THE EVILS OF THE 'TIED HOUSE' HAVE LONG BEEN RECOGNIZED AND MOST, IF NOT ALL OF THE STATES, INCLUDING OUR OWN, HAVE PROHIBITED THE FURNISHING BY MANUFACTURERS OR DISTRIBUTORS OF BUILDINGS, BARS, EQUIPMENT OR LOANS OF MONEY TO A RETAILER. THE

RESTRICTION OR CURBING OF CREDIT BY LEGISLATIVE ENACTMENT IS BUT A LOGICAL EXTENSION OF THESE PROHIBITIONS AND IS DIRECTLY CONNECTED WITH THE EVILS LONG RECOGNIZED IN THE 'TIED HOUSE.'"

NEVADA IN 1965 AND 1966 RECOGNIZED THE NEED FOR SUCH LEGISLATION AND PASSED A CREDIT CONTROL BILL. BY 1967 IT BECAME APPARENT THAT THAT LEGISLATION DID NOT FIT OUR NEEDS. AS A PRACTICAL MATTER, IT WAS NOT ENFORCEABLE. IT WAS REPEALED IN 1967. I AGREED WITH REPEAL BECAUSE THAT LEGISLATION DID NOT FIT OUR NEEDS. THAT LEGISLATION DID A COUPLE OF THINGS WE DIDN'T LIKE IN NEVADA. IT INVOLVED THE STATE TAX COMMISSION TO A BURDENSOME EXTENT. IT IMPOSED A GREAT MANY PROCEDURAL ADMINISTRATIVE PROBLEMS ON THE TAX COMMISSION. THAT WAS ONE THING. SECONDLY, THAT BILL TENDED TO DISCRIMINATE AGAINST RETAILERS THAT HAD A LEGITMATE REASON FOR NOT PAYING THE BILL. ONCE THE RETAILER DIDN'T PAY HIS BILL TO THE WHOLESALER, HE WENT ON A BLACK BOOK AND WAS BANNED THROUGHOUT THE INDUSTRY. THAT OBVIOUSLY IS NOT FAIR. THAT WAS ANOTHER INHERENT BASIC DEFECT IN THAT PIECE OF LEGISLATION. THE PRESENT BILL, I BELIEVE, TAKES CARE OF BOTH THOSE MATTERS SATISFACTORILY. THE PRESENT BILL ELEMINATES THE ONEROUS FEATURE OF THAT ADMINISTRATIVE BURDEN TO THE TAX ASSOCIATION. THERE ARE ONLY EXTREME INSTANCES WHERE THE TAX COMMISSION WILL BECOME INVOLVED IN THIS BILL. ACTUALLY, IS IT MANDATORY ONLY WHEN ONE WHOLESALER FILES A SWORN AFFIDAVIT THAT ANOTHER WHOLESALER HAS VIOLATED THE LAW. IT RELIEVES THE RETAILER WHO HAS AN HONEST DISPUTE IN CONNECTION WITH THE BILL FROM BEING BLACKBOOKED. HE MAY CONTINUE TO DEAL WITH OTHER WHOLESALERS UNTIL THAT MATTER IS CLEARED UP.

I HAVE BEEN ADVISED THAT THE GOVERNOR'S OFFICE HAS MADE AN ANALYSIS OF THIS LEGISLATION AND THE CONCLUSION BY THE EXECUTIVE BRANCH SHOWS THAT THIS LEGISLATION AND THE PROVISIONS OF IT CAN BE ENFORCED WITHOUT ANY UNDUE ADMINISTRATION ON THE NEVADA TAX COMMISSION, OR SUBSTANTIAL EXPENSE TO THAT AGENCY. THE EXECUTIVE BRANCH OF GOVERNMENT IS NOT OPPOSED TO THIS LEGISLATION.

I THINK IT IS OF CONSIDERABLE INTEREST TO NOTE THAT THIS BILL IS BEING SPONSORED BY THOSE PERSONS WHO ARE MOST AFFECTED BY IT. EVERY WHOLESALER IN THE STATE OF NEVADA IS SUPPORTING THIS LEGISLATION. THERE IS MINIMAL EFFECT ON THE RETAILER. THE NAMES OF THESE SUPPORTING WHOLESALERS, WHICH WERE MENTIONED BY MR. RUVO, HAVE BEEN PREVIOUSLY PLACED INTO THE RECORD. IN TRYING TO DETERMINE, WHICH WE ALWAYS DO, WHO THIS BILL

OTHERWISE, WHO WOULD BE HURT, WHO WOULD BE OBJECTING, WE HAVE ATTEMPTED TO DO THAT. IN TALKING WITH OTHER PEOPLE, I HAVE YET BEEN ABLE TO FIND ANY CONCERTED OPPOSITION TO THIS LEGISLATION. IN FACT, IT IS EITHER NOT OPPOSED OR IS SUPPORTED BY ALL OR MOST OF THE RESORT HOTELS IN NEVADA. I HAVE SOME LETTERS WHICH I WILL READ AND ENTER INTO THE RECORD. SO FAR AS I CAN DETERMINE, MOST SUBSTANTIAL LIQUOR RETAILERS IN THE STATE OF NEVADA EITHER ARE NOT OPPOSING OR ARE SUPPORTING THE BILL. WE HAVE LETTERS FROM THEM ALSO AND THEIR CONTENTS I WOULD LIKE TO FILE WITH YOU. WE ALSO HAVE LETTERS FROM RETAILERS.

THE PROPER OPERATION OF THE LIQUOR INDUSTRY IN THE STATE OF NEVADA, NEEDLES TO SAY, IS FAR MORE SIGNIFICANT TO THE GENERAL WELFARE AND PUBLIC INTEREST OF THIS STATE THAN IT IS IN MANY IF NOT ALL OTHERS. OUR ECONOMY IS MORE DEPENDENT UPON THIS INDUSTRY THAN OTHERS. IT IS, THEREFORE, IN THE PUBLIC INTEREST THAT WE DO NOT PERMIT A PRACTICE TO CONTINUE THAT WOULD AFFECT THAT PUBLIC INTEREST. THE VERY PERSONS WHO WILL BE MOST SUBJECT TO SUCH CONTROL ARE REQUESTING THE REGULATORY LEGISLATION. WE BELIEVE MOST RETAILERS ARE IN FAVOR. I RESPECTFULLY URGE ITS PASSAGE.