

**LETTER OPINION**  
**80-59**

June 17, 1980 (OPINION)

Ms. Illona A. Jeffcoat-Sacco  
Special Assistant Attorney General  
Department of Banking and Financial  
Institutions  
State Capitol  
Bismarck, North Dakota 58505

Dear Ms. Jeffcoat-Sacco:

This is in response to your letter of May 21, 1980, wherein you state the following:

The North Dakota State Banking Board recently held a public hearing on a proposal to repeal <13-02-01-02, N.D.A.C. A copy of that proposal is enclosed for your reference. You rendered an opinion on the proposal on May 7, 1980, stating that such a repeal is within the Board's authority. Subsequent to the hearing, a motion to repeal the rule lost 3 to 4.

Accompanying your opinion was a letter from Gary S. Helgeson, Deputy Attorney General, expressing his opinion on the effect of the repeal on the state usury rate. The Banking Board now respectfully requests a formal Attorney General's opinion on the questions raised in Mr. Helgeson's letter.

Specifically, will the repeal of <13-02-01-02, N.D.A.C., to which our usury statute, <47-14-09, N.D.C.C., has traditionally been tied, result in a usury rate tied to <13-02-01-07, N.D.A.C., which also authorizes a 2 1/2 year certificate of deposit? Or will the repeal of <13-02-01-02, N.D.A.C., result in a basic maximum loan rate of 6% pursuant to <47-14-05, N.D.C.C., as suggested by Mr. Helgeson?

Our letter of May 7, 1980, setting forth the discussion of this matter, is incorporated herein by reference. (Copy enclosed)

For the reasons stated in our May 7, 1980, letter, it is our opinion that a repeal by the State Banking Board of the provision establishing the maximum interest rate payable on time deposits with a maturity of 2 1/2 years or more but less than 4 years, as contained in Section 13-02-01-02 of the North Dakota Administrative Code, would result in a maximum interest rate of 6% per annum, as provided for in Section 47-14-05 of the North Dakota Century Code, on those loans governed by Section 47-14-09 of the North Dakota Century Code, and not otherwise provided for by the provisions of that section or other laws of the state.

It is hoped that the foregoing will be of assistance.

Sincerely,

ALLEN I. OLSON  
Attorney General