

**Opinion No. 80-27**

August 6, 1980

**OPINION OF:** Jeff Bingaman, Attorney General

**BY:** Jill Z. Cooper, Deputy Attorney General

**TO:** The Honorable Vernon N. Kerr, New Mexico State Representative, 113 Sherwood Boulevard, Los Alamos, New Mexico 87544

**COMMERCIAL INSTRUMENTS & TRANSACTIONS**

The assessment of an annual fee for the use of consumer credit cards is not in violation of statutory interest limits.

**QUESTIONS**

Is the assessment of an annual fee for the use of consumer credit cards a violation of statutory interest limits?

**CONCLUSIONS**

No.

**ANALYSIS**

The New Mexico Bank Installment Loan Act of 1959, Sections 58-7-1 to 58-7-9 NMSA 1978, regulates the amount of interest which may be charged on credit card installment loan transactions. It also provides that "no additional amount shall be charged or contracted for, directly or indirectly, on, or in connection with, any such installment loan" except for the specific charges enumerated therein. Section 58-7-6. No exception is authorized for annual fees but then, an annual fee is **not** a charge made "on, or in connection with" an installment loan. That is, an annual fee charged solely for the privilege of obtaining a credit card, regardless of whether the card is used in a loan transaction, is not to be considered a finance charge. See, FRB Regulation Z Interpretations Section 226.407, 12 CFR Section 226.407.

**OPINION**

Thus, we would advise that the annual fee charged for obtaining a bank credit card is not, in itself, illegal in New Mexico.

**ATTORNEY GENERAL**

Jeff Bingaman, Attorney General