P U B L I C   H E A R I N G

before

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

on

CONSUMER RELATED BANKING ISSUES

April 28, 1986
Room 368
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Louis F. Kosco, Chairman
Assemblyman Peter J. Genova
Assemblywoman Maureen B. Ogden
Assemblyman John Paul Doyle
Assemblyman Alan J. Karcher

ALSO PRESENT:

William B. Waits
Office of Legislative Services
Aide, Assembly Financial Institutions Committee

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LOUIS F. KOSCO (Chairman): Okay, we will get started. I would like to get this public hearing underway.

ASSEMBLYMAN DOYLE: Mr. Chairman, if I may, just an opening statement of about one minute's duration -- basically to thank you. During the discussion on interstate banking and the related bills which you sponsored, voted for, and have had signed into law -- I think the only important bills signed into law this session so far are your bills, Mr. Chairman -- I asked you during the debate if you would schedule such a hearing as this. You promised me that you would, during the break, and you have -- and it's very much appreciated. I think it's an important issue, and I hope some good legislation can come out of it. I think your action is to be commended, as so far it's probably the most novel bipartisan thing that's happened in the Assembly, and I thank you.

ASSEMBLYMAN KOSCO: Thank you. Do you want to call the roll call?

MR. WAITS: Assemblyman Karcher? (no response) Assemblyman Doyle?

ASSEMBLYMAN DOYLE: Here.

MR. WAITS: Assemblyman Genova?

ASSEMBLYMAN GENOVA: Here.

MR. WAITS: Assemblywoman Ogden?

ASSEMBLYWOMAN OGDEN: Here.

MR. WAITS: Assemblyman Kosco?

ASSEMBLYMAN KOSCO: Here.

Just briefly, let me remind everyone what the purpose of this hearing is about. The purpose of this hearing is to listen to the concerns of the people of our State, and the subject is how the consumer can best be served while keeping our financial community, our State, and our consumers satisfied. That's the purpose of this hearing.

The needs of our State are important. How we address the needs of low-income, moderate-income, and median-income consumers, and how we address the needs of the business community -- both big business and small business -- is important, and this Committee's responsibility is to address those issues.

If you noticed, I pointed out specifically that it concerns the financial institutions, not specifically the banks. The name of this Committee is the Financial Institutions Committee, it is not the Banking Committee. The Financial Institutions Committee takes in everything that has to do with financing in the State of New Jersey, which touches on every single one of us who live in this State or pass through this State.

I think that we have to be concerned about banking. We have to be concerned about stocks, bonds, commodities, check-cashing services, pawnbrokers -- everything that has to do with that area of concern has to do with this Committee. So, I don't want to specifically address any piece of legislation specifically; that's not the purpose of this hearing. This hearing is not to specifically address any particular legislation, by number or by sponsor, but to address the concept and the issues that we think have to be addressed.

I want to speak about things that should be taken care of. I'd like to discuss programs that are already in effect that we think we might be able to make better, taking the positive approach to it -- which is the way I like to do things. Let's try to look at what we're doing right and expand on that, and make the system work better for everyone concerned, specifically to be careful that the consumer is totally protected as we go along with our Financial Committee.

Would anyone else like to have anything to say? Do you have anything else to say, John?

ASSEMBLYMAN DOYLE: No.

ASSEMBLYMAN KOSCO: Maureen? (no questions) Peter? (no questions).

Okay. With that in mind, you all have a list of the people that were notified. We have a tentative list of the people who want to address this Committee.

ASSEMBLYMAN DOYLE: Bill, I saw that list in front of you. I don't know that we got it, but you can make copies later. That's fine.

ASSEMBLYMAN KOSCO: You got copies of it.

ASSEMBLYMAN DOYLE: Oh. Okay.

ASSEMBLYMAN KOSCO: All right. Let's start off our discussions with a courtesy to Assemblywoman Barbara Kalik, who probably may have something else to -- another Committee meeting, like we all do -- go to today. I know I have another. We have a meeting down in Asbury Park, which I'm happy to say my wife is attending for me. So, I have my wife representing me down there, and I have another couple of bills up in the Insurance Committee. But, this certainly takes priority. So, Barbara, you're on.

ASSEMBLYWOMAN BARBARA F. KALIK: Good morning, and thank you, Mr. Chairman and members of the Committee. I can only commend you for the action you're taking today. I think that the lack of concern for consumer banking over the past several years has created some extremely serious problems, and, in fact, I attempted to address it with some legislation last year. The two years that we dealt with the problem in committee were difficult. I must say that the Financial Institutions representative sat with me. We attempted to find a compromise -- worked out probably too late for anything legislatively to happen -- and that's why I really appreciate this opportunity early in the legislative session. I think that is the only way this is going to see the light of day, and that is that the compromises get worked out over the two-year period.

Let me tell you why I'm concerned and how my concern came about. And although I've told this story before, I think it's important to understand where it is that I'm coming from. First of all, I'm a single women, the sole support of my family, and have had serious problems with the banking and financial institutions over the past 11 years -- getting credit, getting a mortgage, getting loans, getting all kinds of things. It has gotten easier as time has passed; nonetheless, I've had a very difficult time with the financial institutions.

Four years ago I was fortunate enough to become a grandmother, and being the proud grandmother that I am, I went to the bank and opened an account for my granddaughter. My grandmother did it for me. My mother did it for my children. And, of course, it's something that I think we all want to do for our children and our grandchildren.

I have a silly system, and you can call it as silly as you want. I'm probably embarrassed to tell you what it is, but I think it's important, and that is that every day I see my beautiful grandchild, now children -- I have two beautiful little granddaughters -- I put a dollar in the bank for them. So, maybe I had $50 or $60 in the bank, and I got a notice from my bank telling me that they are going to charge me a dollar a month on that account or I have some alternatives: I could take that money out of that account and co-mingle it with my other funds; I could buy savings bonds; or, I could -- oh, I forget what the third option was, none of them acceptable to me. I wanted the account in her name, and I didn't want it co-mingled with my money.

I took my money. Not only did I take that $60 out of the bank -- out of that particular bank -- I took all of my money out of that particular bank, including my large commercial deposit -- I own a travel agency -- thinking I would punish that particular financial institution, and I put it in another financial institution with the idea, and the understanding, that they were not going to charge me on this $60 account. It's in there two months and I got the same kind of a notice. Well, that's what caused me to put forth a bill that would prohibit charges on accounts under $250.

The compromise eventually worked out was that if that account was active, there would be no charge; if the account was inactive, there would be a charge, which doesn't seem to quite make sense, except -- you have to understand -- the banks want that money in fees since they're no longer getting it in escheat because we changed the escheat laws. Okay? That's the background for the story so you can understand where I'm coming from.

Now let me just read the statement. And I'm going to skip around a little because I don't want to keep you too long, but I wanted you to understand that I'm aware of what has occurred.

The Interstate Banking Law, the Banking Oversight Law, and the law raising the ceiling on aggregate deposits held by a bank holding company restructured the State's banking system. While these reforms will make the State's banking system more competitive with other states' banking systems and other investment markets, it is also important that the Legislature provide safeguards for the consumer. In fact, with interstate banking, service may become more complex and removed from the consumer as banks may be less localized.

Along with granting advantages to the banking industry, consumer banking protections should be enacted. And I understand that as these banks grow bigger and bigger, their concern for the consumer becomes less and less apparent as they don't want those drive-in lanes clogged with people putting-- You know, I've got to tell you, again, my granddaughter just left on Friday, and this morning I'm going up to the banking window and I'm going to put my $6 in. I mean, that's what I do. So, they don't want me on that line with my $6 deposit. They don't mind taking my $6000 deposit, but they don't want me on line with the $6 deposit, either outside or inside. They don't want the kids in the -- you know, in the lobbies, messing up their deposit slips, or whatever, and I think this is a problem.

The Legislature has an obvious interest in ensuring that all consumers are treated fairly. Furthermore, banks have a responsibility to the consumers of New Jersey. Although banks are not public utilities, they do receive substantial benefits from the government, such as Federal Deposit Insurance, backed by the full faith and credit of the U.S. Government.

In addition, basic banking services have become essential in our society, and I challenge anyone without a bank account to cash a check. You cannot do it. You cannot do it. I challenge anyone without a checking account to get a bank check. You cannot do it. You cannot get identification. You cannot cash a check. You cannot even cash a bond unless you have an account in that bank. So, if someone fortuitously gave you a savings bond, you cannot cash it because you have no established identification.

For these reasons, to promote and protect the interest of consumers in securing financial services from depository institutions, I think we should take some time to describe the problems and the proposed remedies.

I think what we need is a basic consumer checking and savings account. One of the most prevalent problems facing low-income consumers is the increase in banking fees since banking deregulation occurred. The fees make many essential banking services unobtainable by the low-income consumer. Without checking or savings accounts, consumers must resort to check cashing outfits and liquor stores to cash checks. Cashing a check typically costs 1% to 2% of the face value of the check, sometimes as much as 10%. The consumer must then purchase money orders, which are an added expense.

In the alternative, consumers will be forced to carry

-- or keep at home -- large amounts of cash, which in today's society certainly is not a good idea. These individuals may become the victims of theft. This is very likely with the elderly, students, and others who receive government checks on the same date each month, and are forced to cash the whole check.

In addition, check cashing businesses are often located in poor neighborhoods in which crime rates are higher. The poor are statistically more likely to be victims of street crime. To meet these consumer problems, every depository institution must offer a basic consumer checking account. These accounts would be subject to very specific limitations. These restrictions will serve to limit the number of consumers who will be attracted to the basic account.

Every depository institution would be required to offer a basic consumer checking account at all offices where transaction accounts are offered. The account should be required to contain at least the following features:

An initial deposit requirement, not to exceed $10;

No minimum balance of funds to maintain the account;

Several free withdrawals per month by check, and several other withdrawals by a method other than check, without charge;

A maximum fee of 50¢ per withdrawal in excess of the number of checks permitted and number of withdrawals permitted;

A maximum fee of $5 for a check returned for insufficient funds;

A maximum fee of $5 for stop-payment orders;

No fee to be charged for depositing funds;

No fee to be charged for maintaining the account, or account inactivity;

No fee to be charged for a balance inquiry;

No fee to be charged for early closure of an account;

Fees not greater than a reasonable cost to the depository institution for any other account related service, such as return of cancelled checks, printing of checks, etc.; and,

A monthly statement that itemizes the accounts debits and credits during the statement period, and also indicates the balance at the beginning and end of the statement period.

Every depository institution should also be required to offer a basic savings account at all offices where transaction accounts are offered, which should contain at least the following features:

An initial deposit requirement, not to exceed $10;

No minimum balance of funds to maintain the account;

Withdrawal of funds only once a week, in person, without charge;

Deposit of funds twice a week, in person, without charge; and,

An interest paid at 75% of the rate offered on regular savings accounts.

Furthermore, no consumer would be allowed to have concurrently more than one basic consumer checking account and one basic consumer savings account at any depository institution.

A depository institution may also refuse to maintain any transaction account other than basic consumer checking and savings account for the account holders of basic consumer checking or savings accounts.

A depository institution should be prohibited from requiring a consumer to have a credit card, or any other requirement that would tend to discriminate against low-income customers before opening a basic checking account.

Now, if you can't afford to put $20 in an account, you certainly shouldn't be going around with a credit card. And I read the report of the hearing on credit cards, and I understand that people were justifying the 18% credit because that way more people-- They can offer credit to more people, even people who shouldn't have credit. So, my problem is that if you need a credit card to open an account, who needs that banking institution? Obviously, you need the one because you can't have the other.

All banking institutions, or financial institutions -- and when I say banking institutions, I really mean financial institutions -- should be required to allow any consumer to register for an identification card which will entitle the cardholder to cash a United States, a New Jersey State, or a local government check made out to the person presenting it at the branch that issued the card. Can you imagine people with a State check not being able to cash that check at their local bank because they don't have a checking or a savings account?

If the cardholder also presents identification with a picture, he may cash government checks at any branch of the institution issuing the card.

I think these changes would provide basic banking to consumers without creating any undue hardship for the banking industry. Some banks presently offer these banking accounts, and to them I applaud.

There are banks in other states, and they call these accounts "no frills accounts," that limit the number of times a person may use a live teller as opposed to an electronic teller, and I have no problems with that.

Those are the consumer protections as far as accounts. I think we have to go a couple of steps further, and these were not covered last year when I talked about consumer banking. So, very briefly -- and I appreciate the time you are giving me -- I just want to go on to what I call "truth in depositing accounts." The underlying theory of banking deregulation is that market forces will curtail abuses. This theory cannot work, however, unless banking information is published and accessible.

All depository institutions should be required to maintain a schedule of fees, charges, terms, and conditions applicable to each account offered by the institution. That includes the following information:

Initial deposits required;

Minimum balances necessary to avoid fees or charges, and an example of how that minimum balance is calculated, because if you can figure out your statement you're better than I. I can't figure out why some months I get charged $20.32 as a charge, and some months I get charged $36.86. You know, I've tried, and I've just about given up;

Monthly maintenance or other periodic charges for maintaining the account, and the conditions under which such charges will be assessed;

Per transaction charges;

Charges or penalties for early withdrawal or excess withdrawal;

Charges for checks drawn on the account and dishonored upon presentment;

Charges for a check deposited into the account and dishonored by a payer bank;

Charges for a stop payment order;

Charges for a balance inquiry;

Charges for early closure of an account;

Charges for inactive accounts;

Interest payable on any account. -- and that interest information should include the period during which the rate will be in effect, the annual percentage yield, and the standard measurement to facilitate comparison amongst different banks and options. It is very difficult for the average consumer to figure out what 8.35% is on a compounded monthly basis, versus 8.36% on a compounded quarterly basis, plus 8.37% compounded biannually. So, I think we need to show the consumer what that interest is; and, Minimum balance necessary for the depositor to receive interest, the time requirement that must be met for a depositor to receive interest, and, if applicable, a statement that a depositor will lose interest that has accrued but not been credited if funds are withdrawn before the interest has been credited.

Every advertisement regarding an account offered by a depository institution that refers to interest rates or percentage yield should be required to contain the rate of simple interest and the basis of compounding the period which the interest will be in effect, the annual percentage yield, the time or amount requirements necessary to earn the interest advertised -- including the time and amount requirements that will result in a higher or lower rate -- any initial deposit required and, if applicable, a statement that fees or other conditions would reduce the yield, and that a substantial interest penalty is required for early withdrawal -- which is, of course, what was done for CDs, but those are no longer required since the new laws have come into effect.

The balance on which interest is computed on any account would be the average daily balance during the period for which interest is to be calculated. The schedule of fees and charges should be provided in the first regular mailing to account holders, occurring no more than 60 days to any potential customer before an account is opened or services rendered, and to any person upon request. If there is any change in that schedule, account holders should be notified and provided with a description of that change by mail at least 30 days prior to the effective date of the change.

If interest paid or services charges assessed on any account is affected by a minimum balance requirement, the periodic account statement should disclose the balance amount used by the institution to compute the interest payable on the account, the method used for computing such minimum balance, or balances, and a statement itemizing the total charges assessed, the reasons for such charges, and the conditions under which a different set of charges will be used.

No depository institution should be permitted to make any advertisements relating to a deposit account that is inaccurate, misleading, or that misrepresents its deposit contracts.

The third problem-- And I think everyone can tell you war stories about the third problem -- and I'm not going to tell you my war stories, although they are horrendous -- and that's the story of not being able to get your money on your checks in your own account. If you put cash in on Monday morning at 10 o'clock, you cannot get cash out until Thursday morning. Forget about checks; I'm talking to you about cash. If you put a cash deposit in on Monday, you cannot draw a check on that cash until Wednesday or Thursday. So, I mean that's probably the worst war story, but the check stories are just as bad.

Most banks get provisional credit for checks within one to two days, according to the Bank Administration Institute. Only one in 5,245 checks must be written off and the checks lost are of a small amount. For this reason, uniform check hold legislation should be implemented to include the following:

Any Federal, State or local government check that is deposited by the person to whom it was issued would be immediately available for withdrawal. Unless we have lost faith in our government entities it is obvious that those checks are valid checks and that the money is behind those checks.

Funds would be available at the start of the next business day for deposit by a check drawn on any branch of the receiving depository that is within the same Federal Reserve district.

Checks under $100 and cashier's checks or certified checks, issued by a depository institution-- You all know you pay money for a certified check or a chashier's check. You get back a check. That check is as good as the money that you just paid for it. Why should you have to wait five days before that check can clear? It should be considered as good as cash and be able to be used immediately.

Funds would be available at the start of the second business day after the day of deposit for a deposit of checks drawn on a depository institution in the same Federal Reserve district as the institution of deposit -- unless a shorter period is required -- and funds would be available at the start of the third business day following the day of deposit for any deposit by a check drawn on the depository institution outside the Federal Reserve district of the institution of deposit. And I would assume the computers have enabled us to do those kinds of things.

Checks deposited on Saturday, Sunday, or a legal holiday, of course, after the close of business on any business day would be deemed to have been deposited on the next business day. The following exceptions to the availability of funds from funds would be permitted for checks drawn on a depository institution located outside of the United States, double endorsed checks, and checks deposited within 30 days of the opening of an account.

The fourth thing I'd like to bring to your attention is something that has bothered me for many, many years, and that is what we do with our money here in New Jersey. I like to call myself nationalistic when it comes to money in New Jersey. I think if we have this money we ought to keep it and we ought to use for ourselves. I'm very selfish, if that's a word. And, as New Jersey moves to interstate banking, the Legislature needs to be certain that our communities are not harmed by this restructuring. New Jersey needs to ensure that out-of-state banks do not siphon funds for transactions in New Jersey without reinvesting any of these funds into the communities in which the bank resides.

The Legislature should improve upon the Federal Community Reinvestment Act. One method would be to develop a New Jersey Community Reinvestment Board that could review out-of-state banks' Community Reinvestment ratings.

I'd like to thank you all for giving me the opportunity speak on this very important consumer banking matter, and I know that you will be giving your full attention and consideration to the best interests of the New Jersey residents, and I thank you. Any questions?

ASSEMBLYMAN KOSCO: Okay. No questions? (no questions) Thank you very much.

ASSEMBLYWOMAN KALIK: Thank you.

ASSEMBLYMAN KOSCO: Very good. Robert Jaworski from the Department of Banking?

R O B E R T M. J A W O R S K I: Thank you for this opportunity to share with the Committee the views of the Department of Banking on Consumer Related Banking Issues, and, in particular, basic banking services.

My name is Robert Jaworski. I am the Deputy Commissioner responsible for supervising the Department's consumer complaints program, as well as overseeing our legal and economic research staff.

The Department welcomes this public forum to discuss the changes that have occurred in our evolving financial services industry and what these changes have meant to the consumers of this State in terms of responding to their financial services needs. What do New Jersey's banking customers want from today's financial services providers? Are there certain minimal, low cost banking services which every consumer must have in order to function in today's society? Are these services being provided? And, how should these services be delivered and funded?

Today's examination of these questions embodies the dual issues of access to financial services and information with regard to these services. Today's hearings are opportune because it is apparent to the Department that specific, detailed information is required in order to accurately and sensibly address the fundamental questions in this debate.

Before basic service requirements are established, significant questions need to be answered as to how a program would work, what are the costs involved, who would absorb these costs, and who would establish the standards for participation. A close look should be first given to what special services and accounts are now being offered by our financial institutions and which groups of people are utilizing these accounts. Speculation is that a basic banking service product is warranted and needed by a certain segment of the population, and that such services currently not being provided must be carefully examined. Basic banking services should be mandated only after a well-documented track record of need and demand has been established, and our institutions have been given fair time to voluntarily meet that demand.

The Department is, in fact, presently in the process of conducting its own survey of accounts and services. So that we can be prepared to answer some of these same questions, the survey is designed to identify the types of services -- specialized services -- that are available today, the costs of those services both to the consumer and to the financial institution, any and all restrictions that may be attached to those services, and any indication as to which consumer groups those services may be aimed. I regret that our findings are not available at this point, but I expect our analysis to be completed by early summer.

Clearly, any encompassing solutions must evolve through the united efforts of our financial services industry, and our State's lawmakers, regulators, and consumers.

Much has been said and written about the transformation of the financial services industry since its deregulation six years ago. While the changes have done much to intensify competition, promote technological innovation, encourage the development of new products and services, and enhance convenience, flexibility, and choice, these changes have also brought on concerns, concerns about access -- in other words that affordable banking services may not be accessible to certain groups of people -- and concerns about information, that people do not have sufficient information upon which to make choices.

We clearly share those concerns. Unquestionably, no consumer should be closed out of the normal financial services network. Consumers deserve both ready access to their deposited funds and the services of the bank, and clear and useable information with regard to institutional products, policies, and procedures.

As indicated, access to certain basic financial services and information about those services are key public policy issues in this debate, whether we are talking about fees for services, availability of services to certain groups, or the choice of services that are available.

With respect to fees for services, today's explicit pricing of services -- with some institutions charging more for services or applying charges for the first time -- has resulted in heightened public awareness and increased concern as to the appropriateness and validity of those fees. The consumer wants service at a fair price -- in other words, value for his money. In turn, the financial institutions want to price products in reasonable relation to their costs and business objectives. The question then is whether these desires can be reconciled.

Next, availability: The combination of maintenance fees and minimum balances for both checking and savings accounts are thought by many to be pushing available services away from certain consumer groups. Whether this is actually occurring, to whom, and why, must be determined through future study before we can talk about a solution.

Finally, choice. While new services and products have proliferated and wider individual choice is available, there is concern about public confusion. Are our banking institutions doing an adequate job on this score, both in their written disclosures to customers and in the information they impart to their customers on a day-to-day basis through their bank personnel? Again, more facts are needed.

Thus, the issue of access to financial services is clearly inter-related with the issue of information. No matter how educated or sophisticated consumers are, they would be hard pressed to stay abreast of industry changes, or entirely understand the complexities associated with many of today's financial services and products. Consumers need to be able to make informed choices in today's deregulated world. That is why they need the best and clearest information available to help them make those choices.

Providing information is certainly a key to ensuring that consumers understand the rapid changes taking place in this industry. Our perception in the Department is that most banks, knowing this, are voluntarily providing information on prices and types of services, and of changes in those prices and services, along with information relating to internal policies that may affect their customers less directly.

Disclosure has already been put to good use in New Jersey, especially in the area of funds availability. In response to legislative concern, financial institutions are now required to provide written disclosure to their account holders regarding their check hold policies. As outlined in regulations promulgated by the Department earlier this year, each institution must provide specific and straightforward information which spells out its funds availability schedule to its customers.

In this way, consumers are able to make an educated choice by seeking out a check hold policy that meets their individual financial needs. As consumers begin to exercise this choice, competitive pressures will encourage banking institutions to maintain or develop advantageous funds availability policies for their customers.

The idea of required, basic banking services is often offered as a solution for perceived or anticipated problems that may exist in the financial services delivery system. At the Department, however, our consumer complaints experience has not as yet reflected a public demand for such services. The complaints we receive primarily involve fees and the relationship of these fees to financial services and products.

We have observed that people generally recognize that they have to pay for the services they receive, including banking services. They have no quarrel with this. What they do complain about, however, is the failure to be adequately notified of changes in the fees ahead of time. Here again, it would appear that adequate information would help to resolve many of the problems.

Some suggested forms of basic banking must be recognized as a form of price control and a method by which full-service bank customers will be forced to subsidize banks' basic banking customers. Therefore, before we establish mandates and conditions we must carefully determine whether a need -- a demand -- for such banking services exists so that comprehensive and fair recommendations can be formulated.

I assure you that the Department wants to cooperate with you in these efforts. Thank you.

ASSEMBLYMAN KOSCO: Does anyone have any questions?

ASSEMBLYWOMAN OGDEN: I just have one question, Mr. Chairman. When do you anticipate that this study will be completed?

MR. JAWORSKI: We indicated in our statement that we expect it will be completed in mid-summer. I believe the survey is just about ready to go out at this point, and we anticipate a prompt response from the banking institutions.

ASSEMBLYMAN KOSCO: That was the same question I had, because every-- At the end of every paragraph -- and I underlined it -- it keeps referring to what the problem is and that more information is needed. And I am wondering, how come the Department doesn't have this information?

MR. JAWORSKI: Well--

ASSEMBLYMAN KOSCO: The situation didn't just happen. You can't blame it on interstate banking because it hasn't happened yet. So, what I'm saying is, if we-- Have we been running through a track record as to your Department and not know anything about it, or have we been working on it consistently?

MR. JAWORSKI: No. This survey has been a long time in the making, primarily because of its complexity. To get accurate, meaningful information from the banks about all the products and services they offer, and the fees they charge, requires a fairly intimate knowledge of the internal operations of the bank and the business judgments that they have to make, and this has impeded preparation of this study.

As I said though, this study -- survey -- is just about nearing being ready to go out to the institutions.

ASSEMBLYMAN KOSCO: Is this a form of a questionnaire type of a survey?

MR. JAWORSKI: Yes, it is.

ASSEMBLYMAN KOSCO: Do you send it to--

MR. JAWORSKI: It's a formal questionnaire, and institutions respond to the questions -- each individual institution. It's sent to every banking institution in the State, including nationally chartered banks.

Also on that score, the proliferation of products and services in the banking industry is fairly new. It has occurred, beginning since deregulation of banking. That was what provided the impetus for this flood of new product services, and the different pricing techniques of banks have arisen since that time. In an effort to meet some of their increased costs, they have changed a lot of their fee structures which, again, has brought about the problems that we're discussing today.

So, the problem itself is fairly recent, and recognition of the problem is even more recent.

ASSEMBLYMAN KOSCO: Okay. Does anyone have any questions? Mr. Doyle?

ASSEMBLYMAN DOYLE: What provoked the thought that a survey was needed?

MR. JAWORSKI: I think the public debate which had sprung up, for one thing, together with the -- some of the consumer complaint experience that we had, which, again, concerned not really complaints about an inability to get a foot in the door, so to speak, but more the complaints would stress that what was happening wasn't fair, that they weren't being notified ahead of time of certain changes, or that the notice wasn't adequate in some way and that they were being hurt. These complaints provided at least some of the impetus to our drawing up the survey, along with the public debate which has been going on now for a couple of years.

ASSEMBLYMAN DOYLE: Is the survey out now?

MR. JAWORSKI: No. It is not ready to go out.

ASSEMBLYMAN DOYLE: Would it be possible for the Department to send this Committee a blank of the survey?

MR. JAWORSKI: Ah, I anticipate it's possible, sure.

ASSEMBLYMAN DOYLE: Well, let me be more specific.

MR. JAWORSKI: I was not sending out the proposal myself, and it doesn't come under my jurisdiction in the Department but--

ASSEMBLYMAN KOSCO: I would anticipate it's possible too.

MR. JAWORSKI: I would anticipate there wouldn't be any problem.

ASSEMBLYMAN DOYLE: Will the results of that be publicly disclosed? And I don't mean this bank said "this," but in gross terms, percentages, and what not?

MR. JAWORSKI: I would say that our plans are, yes, that the results would be publicly disclosed.

ASSEMBLYMAN DOYLE: If that survey-- And I don't want to be too speculative, but if that survey discloses, as some of us think that it may, why the varying procedures and charges perhaps are not given, the consumer doesn't know in advance, and charges perhaps are not altogether related to the actual expense, and there is an inability -- any of these -- of low- and moderate-income persons to get into the banking system, is the Department inexorably opposed to any kind of regulation?

I think all of us would prefer the banking community to have a free market approach. But to the degree that perhaps a free market approach does not work, as revealed in your survey -- if it shows that -- are you opposed to some sort of regulation?

MR. JAWORSKI: No, we're not enexorably opposed. Again, we are, I think, philosophically favorable to voluntary efforts by banks, and if they don't prove to be sufficient we would tend to look at -- to see if there's something that can be legislated in terms of -- or regulated in terms of -- disclosure that would help solve the problem. I think this is the Department's approach in the check hold area, and we're keeping tabs to see if your check hold regulations will have the intended effect.

ASSEMBLYMAN DOYLE: You already have check holding regulations which merely require -- and I don't mean merely, but which require a bank to disclose what their policy is.

MR. JAWORSKI: Yes.

ASSEMBLYMAN DOYLE: Is there any thought to putting on some maximum hold period for certain types of checks -- for instance, government checks or checks drawn upon New Jersey institutions in an account that is not a new or previously fraudulent account?

MR. JAWORSKI: Well, not at this time. We're eager to see the results of the disclosure regulations to see how, and perhaps the results of our survey may show this. It may be too soon to actually reflect that -- too close to the imposition of the regulations. The regulations-- I don't know when-- There's a 60-day period within which all banking institutions have to notify existing customers.

ASSEMBLYMAN DOYLE: We're in that 60-day period now, aren't we?

MR. JAWORSKI: We're in that 60-day period now, I believe, and I'm not sure when that ends. But if this survey-- If we are to receive the results of the survey by mid-summer, it probably-- It may reflect some movement by banks regarding their check hold policies resulting from at least the knowledge that they're going to have to disclose. But it won't affect any-- It won't show any absolute correlation yet. It would be too soon.

ASSEMBLYMAN DOYLE: Does the Department have intent, because the consumer-- If my bank discloses how long they hold checks, I don't know how long other banks hold their checks, and maybe they are better. I know, for instance, in my area -- to make a comparison -- the <u>Asbury Park Press</u>, every Sunday, compares mortgage rates in terms of rate, points, and application fee for four basic types of mortgages: 15 adjustable, 30 adjustable, 30 fixed, and 15 fixed.

Does the Department have any thought about publishing bank-for-bank the results of the survey, for instance for check holding, so the consumer can make a broad choice?

MR. JAWORSKI: I'm not-- Well--

ASSEMBLYMAN DOYLE: Because, otherwise, how do you shop around, other than go through a whole list of calls?

MR. JAWORSKI: Absolutely. I understand. I mean, I understand your question, and all I can tell you is that we have been, and are, looking at a number of different public information-type avenues so that we can be part of the solution, and that would certainly be one of them.

The check hold regulations do not require banks to notify us of their check hold policies. It's required to notify their customers. So, in that regard we wouldn't have the information. However, if the survey-- I'm pretty sure an area of the survey is directed to that, and that we would acquire that information, and it would become public -- assuming the entire results of the whole survey become public.

A more important question that really lurks there is whether the Department can obtain information on a periodic basis and make that public, which would be-- I think in this era of rapidly changing changes in the banking industry, it would be something that would be important. As to that, I can't offer any opinion. We are looking at, and have looked at, the feasibility of making some sort of periodic informational type statement available to consumers -- to the public.

ASSEMBLYMAN DOYLE: The last question, Mr. Chairman, with your permission. Regardless of the survey, disclosure, or how wide it is, doesn't the Department have some thought about taking, let us call it a normal check that is a State check -- I don't mean a New Jersey check, but I mean a check on a New Jersey bank in an account that is a normal account, that is a historic, good, account. Isn't there some maximum time past which it is fair or unfair to hold that check, be it two days, three days -- it seems to me -- at the outside?

MR. JAWORSKI: Well, if you're talking about--

ASSEMBLYMAN DOYLE: And why not legislate that, if there are banks past that time?

MR. JAWORSKI: I know if-- Well, there are-- The really important point, at least from the banks' point of view -- the really important point -- is not the indication they get after a day or two that the check is -- that they received provisional credit, or whatever the term is. The really important thing is when they get the check back and it's paid, and this can take some time, the way the process is set up now. And the difficulty with legislating that kind of a solution is that there are all sorts of ways in which people can use the system to their advantage.

For instance -- and this does happen -- people set up an account. They'll put a lot of money in. They'll -- obviously, this doesn't happen very often -- develop a relationship with their bank, and the money they put in will be, you know, certain smaller amounts, and then one day they'll come in with a big check and they'll already have the relationship, and the bank will say, "Fine, we'll cash it for you. We'll even let you draw on your account early," and they do, and that's the last thing the bank hears of him, when they get the check back and it bounces.

ASSEMBLYMAN KOSCO: That doesn't happen a lot though, does it?

MR. JAWORSKI: No. But it does happen, and that's the concern that banks have in that area. The important consideration is the person who's cashing the check, not necessarily where the account is, on whose account the check is written. It is the person, the bank's familiarity with that person, and what the chances are.

I mean, there have been figures raised that, "Well, only a small portion of checks are eventually returned, and they are usually for small amounts."

ASSEMBLYMAN DOYLE: On second presentation, one out of every 524.

MR. JAWORSKI: Yeah. I mean, that-- The lowness of that figure may be due, in part, to the procedures that most banks have, and that encourages people not to try to commit fraud and not to try to pass a bad check because it won't do them any good. So, there's always a danger in legislating strict check holding periods, that you may be, in fact, encouraging more fraud in that area.

ASSEMBLYMAN KOSCO: Okay?

ASSEMBLYMAN KARCHER: Mr. Chairman, with your permission, in the written testimony you used the term that speculation-- The basic banking service product is warranted and needed. Our banking department shares, I'll call it a clearing house basis with other states, don't they?

MR. JAWORSKI: We seek out information, yes.

ASSEMBLYMAN KARCHER: Other states have-- In fact, some states relatively similar to New Jersey -- Massachusetts, Connecticut, Illinois, New York -- have moved in this direction, and do you think they were satisfied that it wasn't speculative any longer, or do you think they just operate on speculation?

MR. JAWORSKI: Well, first of all, there's two answers. One, we don't know exactly what they operated on, whether it was on validly conducted studies, or pushes from various interest groups, or whatever. And the situation in those states may be different from the situation in ours.

But, more fundamental is the fact that there have been some national studies -- and I've looked at them -- that indicate that there has been some increase over the last few years in people who have no banking relationship with a financial institution. But there has been no study, to my knowledge -- I have not seen one -- of whether that holds true in New Jersey.

ASSEMBLYMAN KARCHER: Well--

MR. JAWORSKI: We have a fairly unique economic situation in New Jersey. The banks operate under that system, and it may have effects that are different from the nationwide norm.

I might add also that there has always been -- most of those studies show -- a certain percentage of the population which do not have a banking relationship, even when the banks typically offered no-cost savings accounts and low, or free, checking accounts to virtually anybody who walked in the door.

ASSEMBLYMAN KARCHER: What percentage would you think would be legitimate for people in a given universe, or a given pool of a State, not to have a banking relationship with them? What have the studies you've seen indicate to be the norm?

MR. JAWORSKI: What would be the norm?

ASSEMBLYMAN KARCHER: Yeah, what would be the norm? Well, you said you're familiar with the studies and--

MR. JAWORSKI: Well, I've seen studies that indicate that somewhere-- And I'm not sure that I'm recalling the figures correctly but-- I really don't recall. I apologize for that but--

ASSEMBLYMAN KARCHER: That's all right. Let me give you a suggestion. You have available at the Department of Banking some data, through your audits, how many accounts there are in all of our institutions, isn't that correct? I mean, you could, on any given day, go through the audits of each financial institution that's monitored, regulated, and supervised by the Department.

MR. JAWORSKI: I'm sure we can.

ASSEMBLYMAN KARCHER: And you know how many passbooks there are and how many checking accounts there are.

MR. JAWORSKI: Probably, yeah.

ASSEMBLYMAN KARCHER: A call to the Social Security Administration would tell you how many recipients there are in

New Jersey. A call to the Department of Employment Security over in Labor would tell you how many people are employed in any given month. It would seem that we could take-- It's very simple. I mean, we could probably do it in about 15 minutes. We could call your Department and find out how many checking accounts and savings accounts, then we could take the number of Social Security checks issued in New Jersey, and the number of people, last month, who were employed. We would assume that every one of those-- Every one who is a Social Security recipient-- And it might be a mutually exclusive universe that's there because people on Social Security, for the most part, are not also employed. I mean, in a very, very limited number they may overlap. So, we'd take those who are employed, and people who are paying into the system for employment security -- the DES, the Division of Employment Security -- and with that report, plus Social Security, we would say, "At least those people are either getting a Social Security check, or they are getting a payroll check," and then we could compare it to the number of checking accounts, or savings accounts, that are open, and we'd be able to determine within 15 minutes how many people are outside of the system, could we not?

MR. JAWORSKI: I don't know. I don't know if that-- I don't know if you can do that because, you know, probably if you went around the table, you're going to come up with more than eight bank accounts.

ASSEMBLYMAN KARCHER: Yeah.

MR. JAWORSKI: So, if I have six bank accounts and you have six bank accounts--

ASSEMBLYMAN KARCHER: Sure. It would be an error in favor of-- If anything, it would err on the side of those of those of us wealthy people, like yourself, who have six different bank accounts.

ASSEMBLYMAN KOSCO: Nine.

ASSEMBLYMAN KARCHER: Nine.

ASSEMBLYMAN DOYLE: That's two less than him, Mr. Chairman.

ASSEMBLYMAN KARCHER: But it would seem to me that that would be a place to start, would it not?

MR. JAWORSKI: I don't know. I honestly don't know.

ASSEMBLYMAN KARCHER: A fifteen minute project.

MR. JAWORSKI: I honestly don't know what that would show.

ASSEMBLYMAN KARCHER: Maybe it would show something; maybe it would not show something. Do you want to do it? I've a good idea what it would show, a very, very positive idea of what it would show.

Anyway, you also used the phrase -- in response to Mr. Doyle -- that there are people who use the system to their advantage. Is that to suggest that it's only the consumers who use the system to their advantage, that the financial institutions in this State do not use the present system to their advantage?

MR. JAWORSKI: Absolutely not. I was only referring to a very limited number of people who would even think about committing fraud. That's all I was referring to on that.

ASSEMBLYMAN KARCHER: Or even use the system to their advantage. But there's no doubt in our mind that the banks use the present system to their advantage?

MR. JAWORSKI: Of course. I mean, they're not charitable organizations. They're corporations, and every corporation has to act to its own advantage.

ASSEMBLYMAN KARCHER: And God bless them.

In answer to Mr. Doyle's questions, you describe the problem and why the system was such, and you used the term, "from the banks' point of view," which leads me to the last thing, "philosophically," which is another term you used. The Department-- Doesn't the Department view its obligation philosophically, not from the banks' point of view but as a public agency dedicated not to be taking the banks' point of view but the consumers' point of view -- the citizens' point of view?

MR. JAWORSKI: Well, I didn't say we took the banks' point of view. I just made the banks' point of view known. Also, the Department has a dual obligation. One is to preserve the safety and soundness of our banking institutions; the other is to protect our consumers. And we try to meet both of those obligations.

ASSEMBLYMAN KARCHER: In a balanced way?

MR. JAWORSKI: Yes.

ASSEMBLYMAN KARCHER: Thank you.

MR. JAWORSKI: You're welcome.

ASSEMBLYMAN KOSCO: Okay? Thank you very much.

We'll now call Marlen Dooley from the New Jersey Public Interest Research Group. You didn't fill out a thing, but I was told that you wanted to speak, so I have you written down on a yellow pad.

M A R L E N D O O L E Y: Thank you.

My name is Marlen Dooley, and I am consumer advocate and attorney for the New Jersey Public Interest Research Group. And I'm also speaking today on behalf of a number of other consumer and community groups: the Battered Women's Shelter for Mercer County-- These are groups that I understand you wouldn't want -- would prefer that we didn't speak on particular legislation, but the general problem--

ASSEMBLYMAN KOSCO: I insist that we do not speak on particular legislation--

MS. DOOLEY: Right.

ASSEMBLYMAN KOSCO: --but rather, the concept of consumer banking and financial institutions as it relates to the consumer.

MS. DOOLEY: Right. So, I'm -- PIRG is in favor of no-frills checking, savings accounts -- feels those are needed;

government check-cashing services and schedules for the quick clearance of checks. And some of these other groups we have on these lists that I'll pass around also support these concepts, although, you know, I have them as endorsing a particular bill. It's really the concept behind that.

ASSEMBLYMAN KARCHER: Mr. Chairman, could I be very impolite and ask to do something?

ASSEMBLYMAN KOSCO: Excuse me?

ASSEMBLYMAN KARCHER: Could I be very impolite and ask this young woman to hold-- Could I ask Mr. Jaworski one last question?

ASSEMBLYMAN KOSCO: You sure? (refers to Mr. Jaworski) No, just stay right there.

ASSEMBLYMAN KARCHER: Stay right there. I meant to ask it; I'm sorry.

I read the <u>Asbury Park Press</u> on Sundays too, and I see all those wonderful business sections they have, and the wonderful business section in the <u>Star-Ledger</u>, etcetera, etcetera, and I see all these advertisements. And I don't have the time to verify them. Can you tell me how many actions are pending in your Division against financial institutions for either false or misleading advertising, and what they've done?

MR. JAWORSKI: (speaks from audience) Well, when you say (inaudible)--

ASSEMBLYMAN KARCHER: I mean, action where you have got-- I take it that the Department goes out and checks those. I mean, I don't have the time to do it, but I would think that somebody in the Department is monitoring to see whether that's accurate, and whether there's anything that's included in the plethora of ads that are done, and whether they're accurate or not.

MR. JAWORSKI: One thing-- We respond to continual complaints regarding (inaudible -- still speaks from audience). And I can't even give you a "guesstimate" as to how many complaints we're currently working on in that regard, but there are--

ASSEMBLYMAN KARCHER: But there is no independent -- there's no sua sponte; there's no Department--

MR. JAWORSKI: And also--

ASSEMBLYMAN KARCHER: ---generated monitor.

MR. JAWORSKI: --We also have our examination procedure, which goes (inaudible) periodically, once every--

ASSEMBLYMAN KARCHER: Well, I know what examination procedures are. You're telling me that your examination procedures reviews advertising?

MR. JAWORSKI: I believe they check to see that interest paid is what the institution says they're going to pay, and that rates are what the institution says they'll be. I believe those are factors in the examination of the bank, if that answers your question.

ASSEMBLYMAN KARCHER: Thank you.

ASSEMBLYMAN KOSCO: That's a good question. Thank you. Go ahead, continue.

MS. DOOLEY: So, I just wanted to mention some of the other groups that I'm also speaking on behalf of today, that support the types of concepts that we would like to see implemented in some type of legislation: The Battered Women's Shelter for Mercer County, the Elizabeth Avenue Community Center, Executive Directors Committee of New Jersey Statewide Community Action Program, Ironbound Leisure Citizens, Mercer County Surrogate HOPE, Middlesex County Retired Education Association, New Jersey Foundation for the Blind, New Jersey Haitian American Cultural Foundation Incorporated, New Jersey SHARE, People That Love Center, Rahway Community Action Organization, Senior Citizens Center of Kearny, and South Amboy Senior Citizens Center.

And I think it's important to mention these groups, just because these groups and their members all feel that basic banking services for their members is really lacking; and that they're very excited about the concept of some kind of no-frills account, and feel that it's really needed.

I was just going to mention some of these statistics that have been done in national surveys, that were alluded to earlier: In 1982, the Federal government began lifting the interest rate ceilings on the amount the banks could pay depositors. This action was taken to allow banks to be competitive with other investment markets. Following deregulation, we have seen the tremendous escalation of basic bank service fees. According to a Wall Street Journal article, between 1978 and 1982, bank service charges more than doubled, to 10.8 billion from 4.9 billion.

The House Banking Committee has also estimated that between '79 and '83, the cost of basic banking services for the average U.S. household jumped 104%, from $91.94 to $187.59. In a nationwide study conducted by the San Francisco Consumer Action Group, higher fees hiked charges on a typical checking account to more than $100. At some banks, the charges approached $200.

Fees for excessive withdrawals from checking accounts, or maintaining small accounts, for cashing government checks, for using live tellers, and for using automatic tellers are common. Large account holders obviously don't have trouble fulfilling minimal balance requirements. In addition, these preferred customers often receive banking packages that exclude any service charges. It's the moderate and low-income consumer that's harmed by these increased charges.

According to Federal Reserve Board data, 40% of all Americans have less than $1,000 to $5,000 in financial assets of any type. Not only do these consumers not reap the benefits of high-interest accounts, but they may not be able to buy essential banking services because they can't afford the fees.

New Jersey PIRG is concerned that the moderate and low-income consumer is being pushed out of the banking market. Again, data from the Federal Reserve Board shows that the number of families without checking accounts is greatly rising. In 1977, 44% of the poorest American families did not have checking accounts. In '83, 56% did not have checking accounts.

The Houston Med Center Bank (phonetic spelling) provides a good illustration of how many banks are de-marketing customers. Houston Med increased its fees and chased away 8,000 to 12,000 customers. At the same time, the bank doubled its deposits by pursuing the wealthy. The average depositor at the Med maintained a balance of $30,000.

It should also be noted that there is a wide disparity of fees among banks. This calls into question the relation of the fees to the service. Philadelphia's Mellon Bank East charges $30 for each bounced check, while others charge only $10 to $15. New York State, in '82, asked banks to submit data on the actual costs of processing a bounced check. The bank could only justify $5 to $6 an item, so the State set a maximum fee of $7.

Fees are not the only way in which consumers are discouraged from banking, requiring high minimum balances, ownership of credit cards or sponsors or other tactics. The problem exists and will continue to grow unless action is taken.

Interstate banking laws were recently enacted in New Jersey. There's no proof that that will alleviate this problem. In fact, with interstate banking, services may get more removed from the customer because the banks may be less localized.

We feel that New Jersey should set the ground rules for any bank doing business within its borders. Many other states have recognized the difficulties facing low-income consumers, and have implemented legislation.

The State of New Jersey has an obvious interest in assuring that all consumers are treated fairly. New Jersey PIRG also believes that banks have a responsibility to the consumers of New Jersey. Although banks are not public utilities, they do receive substantial benefits from the Federal government, like the insurance that was mentioned earlier.

Basic banking services are essential in our modern world. Without access to checking and savings, consumers have to resort to check-cashing outfits or liquor stores to cash their checks. Cashing a check typically costs one to two percent of the face value of the check, and sometimes as much as 10%. The consumer must then purchase money orders, which are an added expense.

In the alternative, the consumer will be forced to carry or keep at home a large amount of cash. These individuals may become the victim of theft.

To meet these problems, we suggest that every depository institution be required to offer basic consumer checking and savings accounts, and that these accounts could be very limited so that the limitation would keep a large number of people from being interested in the accounts.

On the check clearing delays-- In 1984, New Jersey PIRG did do a study called "Held Up at the Bank." Fifty-nine percent of the 156 banks surveyed placed holds of one week or more on local checks. Besides the obvious problem that consumers--

ASSEMBLYMAN DOYLE: Excuse me. What was that number again? Fifty nine out of--

MS. DOOLEY: A hundred-- Fifty-nine percent of the 156 banks surveyed.

ASSEMBLYMAN DOYLE: More than a week on a local check.

MS. DOOLEY: Mmm-hmm.

And I want to respond-- I realize that we've had certain disclosure laws passed since this study was done, but there was one problem that wasn't mentioned earlier, which is that oftentimes, within a certain region -- and this is something our study indicated -- regionally, the banks will have the same hold period. For instance, I think it was five out of seven Newark banks held State checks for periods ranging two to four weeks.

Now, if you're in Newark and you can't travel to another area -- and most of us do local banking; we're not going to, if we find out that -- we live in Newark and a bank in Asbury Park has more favorable holds, we're not going to travel to Asbury Park to do our checking there. But if, within a certain region, the holds are long, that isn't really going to -- disclosure isn't really going to help that problem.

In addition, people look to other factors besides holds. If one bank is the only bank you could cash your government check at, then even though it has long holds, you're going to be forced to go to that bank. So, I think disclosure may not get at all the problems.

So, I guess, just in conclusion, at the present time we feel that low-income consumers do not receive adequate banking services. And we feel that some of the national statistics do bear this out. Also, we also-- New Jersey PIRG is also doing a bank fee survey at the present time. We hope to have that out by the end of May, the beginning of June.

Although deregulation was expected to improve the banking market, it has only done so for consumers who can take advantage of high-interest accounts. New Jersey needs to enact banking legislation that will assist low-income consumers.

New Jersey PIRG urges the Committee to hold hearings on bills which would provide no-frills checking and savings accounts, government check-cashing services and uniform check-clearing schedules, and of course, disclosure provisions.

And I thank you for this opportunity. If there's any questions--

ASSEMBLYMAN KOSCO: You have a study going on now? And what does that study comprise?

MS. DOOLEY: We-- Through a telephone survey, we've asked questions regarding bounced check fees and other fees related to accounts. We've asked if places have accounts for people over 65, whether they have special accounts for students, and whether they have minimum -- any kind of limited accounts.

ASSEMBLYMAN KOSCO: I see. Your survey is going out to the individual people, not to the business community?

MS. DOOLEY: We've telephoned the banks, and we haven't-- We usually publish our surveys and they're available to anyone for a nominal fee. Was that your question?

ASSEMBLYMAN KOSCO: The survey the Department is doing is, sending their surveys out to the banks. We--

MS. DOOLEY: We telephone the banks and ask the questions over the phone.

ASSEMBLYMAN KOSCO: Okay. But you're also telephoning individual people?

MS. DOOLEY: No.

ASSEMBLYMAN KOSCO: Just banks?

MS. DOOLEY: Just banks.

ASSEMBLYMAN KOSCO: I misunderstood you. Thank you. Any questions?

ASSEMBLYMAN DOYLE: One question. You mentioned all of those groups -- mostly citizen groups, senior groups, that are -- I think your word was, excited about the opportunity for banking services, and I note the Deputy Commissioner's statement that as of yet, there has not been reflected a public demand for such services. I mean, those two statements, excitement versus little public demand are seemingly opposed to each other -- how do you know that there's that demand out there?

MS. DOOLEY: Well, the reason we initially became involved in the issue was because we have -- New Jersey PIRG has a door-to-door canvass, and we received some complaints through there, although we are not -- we don't have a complaints, consumer hotline, or anything of that sort. We also have a student board, and there were some complaints through our student board. (Senator Christopher Jackman enters at this time)

SENATOR JACKMAN: (away from microphone) Hello, Karcher.

ASSEMBLYMAN KOSCO: Oh, we didn't see you come in. (laughter)

SENATOR JACKMAN: Did I break the meeting up?

ASSEMBLYMAN KOSCO: No, we were just sitting here having a general converation. (laughter)

MS. DOOLEY: And then, I guess--

ASSEMBLYMAN KOSCO: Talk quietly, Chris.

MS. DOOLEY: --we have certain consumer groups where we discuss issues, that also do lobbying or whatever, and then we actually phoned a lot of groups and told them about this bill and the bill that was mentioned earlier -- 2328 -- and asked if they had any kind of problems. If they thought their membership would be interested, they then went back to their membership and discussed the issue and found that there was a general concern.

ASSEMBLYMAN DOYLE: You mentioned a Houston statistic, and that could be representative of oil companies not making as much money or anything else. Do you have any comparable statistics about loss of customers in New Jersey banks, or de-marketing, I think was your phrase?

MS. DOOLEY: No, but I bet I could get other statistics for you.

ASSEMBLYMAN DOYLE: More local, though.

MS. DOOLEY: Okay.

ASSEMBLYMAN DOYLE: Okay. Thank you.

ASSEMBLYMAN KOSCO: Okay, thank you.

Assemblyman Singer? I assume you're going to talk about consumer--

ASSEMBLYMAN ROBERT W. SINGER: Yes.

ASSEMBLYMAN KOSCO: What we're trying to do is, I was trying to go from one -- someone who was going to discuss consumer legislation, and one of us would discuss the industry, so I'm just going out of the sequence now--

ASSEMBLYMAN SINGER: Mr. Chairman, I'll be--

ASSEMBLYMAN KOSCO: --because I know you're in a hurry--

ASSEMBLYMAN DOYLE: I'm sure he's going to be objective and come down on either side.

ASSEMBLYMAN SINGER: I will be only a few minutes, and I appreciate your taking me out of order. Of course, yourself, Assemblyman Doyle, and myself are all missing our tourism meeting.

ASSEMBLYMAN KOSCO: I'm not. Listen, I'm (indiscernible) (laughter)

ASSEMBLYMAN DOYLE: Lou's on that Committee, too.

ASSEMBLYMAN SINGER: I know that. (unidentified speaker, away from microphone, indicates hearing is in Paramus) No, it's in Berkeley-Carteret, as a matter of fact.

Thank you, Mr. Chairman, and I thank the indulgence of the Committee, just to let me share a few points with you.

I would like to share the problems that we're facing today in Lakewood, which I'm mayor of. And if you're not familiar with Lakewood, it's a population of about 40,000. We're the only urban aid City in all of Ocean County. We have the largest Section 8 program in the County. We have more HUD and low-income housing than the rest of the County put together, and certainly have the highest proportion of minorities in the County, as well as a large percentage of the recipients of the County. So therefore, I face the problems of most urban aid mayors.

Today, people on fixed income -- Social Security checks as well as welfare recipients -- are unable to cash a check within my municipality. We recently did a survey of all the banks we do business with. And our policy in our municipality is that we deal with all our local banks. We send out solicitations every time we want to put money to invest. We keep our accounts in local banks, and the 12 banks that have offices in our Township are always kept abreast of how we're investing our money, and are always welcome to participate in bidding and in looking for our accounts.

We did a survey recently with all of them, asking which one of them would possibly be willing to cash both Social Security Checks and/or welfare checks of people who do not have accounts in their banks. And not one bank replied that they were willing to do that.

That faces a very difficult problem for people in our Township. Number one, we are a rural County, and transportation -- mass transportation is not easily accessible to many points of the County. The only bank in the entire County that does that is in Toms River, and I think they have a branch office in Bricktown -- John may remember that, or may know about that.

ASSEMBLYMAN DOYLE: First National Bank?

ASSEMBLYMAN SINGER: Yeah. But they're unable to do it within our own Township, which means that, number one, they must travel some 20 to 30 minutes, depending on where they live in our Township, to go cash a check. And it becomes a difficult entity for them. We have tried to speak to the banks -- we were successful last year, and through the help of certain members here, in convincing them to sell food stamps, which was another major problem we just went through -- a hurdle in our County, where no bank in our entire Township sold food stamps. That has been overcome; we do have some banks that do that now. But we've been unable to convince the banks where they're willing to switch accounts to them, or do something; where they've helping them with an ID program to make it more reasonable for them to do it -- to allow people to cash the checks.

Senior citizens in our area -- some of them just do not want to have checking accounts, and we put them in a very difficult position. Many of them are in walking distance to many banks, and again, they have to travel down to Toms River to cash their Social Security check. Or, again, a mother on welfare has to travel to Toms River to cash her welfare check. And welfare, as you know, gives ID cards with pictures on them. We have talked to the banks about it; we have tried to lure them any way we can on the local level -- we were unsuccessful. And I certainly would ask you to consider, on the plight of the low-income people, that there should be some help given on the State level, where you try to do it without a State mandate; but I guess it's not going to happen unless we order the banks to be more reasonable to low-income people and help their plight out, certainly, when they cannot cash their checks reasonably.

That's all I wanted to share with you.

ASSEMBLYMAN DOYLE: Bob, did-- With your permission, Mr. Chairman. Did that survey include the fact that -- or did the banks, in unanimously saying no, know that the person with the check would have a picture ID?

ASSEMBLYMAN SINGER: We called the-- When we first mailed them out to all the banks, we received no responses back. So, I had the treasurer call the banks individually, and ask them. And they said their banking policies were that if a person did not have an account in the bank, they would not cash the check no matter what ID they had. And that was their policy, and we even went as far as to say, "Look, we are willing to say to the bank that is going to do this for us, to be more helpful to them with Township funds" -- in other words, we would put some of the checking accounts in there. We would do more for that bank if they were willing to help out the plight of low-income people. We had no response from any of the banks.

And I think it runs through-- Funding-wise, we're talking-- Our municipal budget's about $19 million, my school budget's about $28 million. So, we control some $50 million, plus reserve funds and everything else like that, which is a substantial amount of money. Again, we could not persuade any bank to be reasonable on that.

ASSEMBLYMAN DOYLE: I know it's second-hand, but what were -- do you know what the reasons were given that the check might be fraudulent, or that--

ASSEMBLYMAN SINGER: That was one thing: they felt they didn't have a recourse back, if the check was bad. The other concern was that they're busy certain times of the year with their own customers, and here you have people coming in and cashing checks that are not customers, that they're not making money on.

We don't have, by the way, cash-checking privileges -- in other words, places that cash checks. There is no place around our area that does that, so even if a person didn't want to go the bank -- is willing to pay a few dollars to have their checks cashed -- there just aren't places that do that in our town.

ASSEMBLYMAN DOYLE: The second problem, besides the fraudulent -- and I've heard it too, but just to put it on the record -- is that those checks all come out the first week of the month and there's complaints that the lines are lengthened by non-customers--

ASSEMBLYMAN SINGER: Exactly right.

ASSEMBLYMAN DOYLE: --clash with their regular customers.

ASSEMBLYMAN SINGER: I thank you for taking me out of order, and--

ASSEMBLYMAN KARCHER: When did you do this? When was this study done?

ASSEMBLYMAN SINGER: The study was done about two months ago, Mr. Karcher. We had gone through the battle concerning the food stamps last year; that was our first priority since, again, many people were unable to purchase that in town. We did make arrangements with several of the banks, and they have been doing that. This situation came about this year. We've started to look at it, and about two months ago, we did make the survey.

ASSEMBLYMAN KARCHER: The Banking Department apparently thinks that the problem is speculative. Have you shared this information with the Banking Department so that they might not feel that it's such a speculative problem?

ASSEMBLYMAN SINGER: No, I did not. I tried testifying in front of the Senate Committee on banking concerning when we were passing some pro-banking legislation, but I felt that if we were going to give something "pro" to the banks, we might take something back a little bit. But I didn't fare too well at that Committee.

ASSEMBLYMAN KARCHER: Might I be so bold as to suggest that perhaps you would like to, in your capacity as Mayor -- or maybe have your comptroller or treasurer in your town -- share this with the Department--

ASSEMBLYMAN SINGER: Absolutely.

ASSEMBLYMAN KARCHER: --to apparently reside (indiscernible).

ASSEMBLYMAN SINGER: I will see that a letter goes out.

ASSEMBLYWOMAN OGDEN: Through you, Mr. Chairman.

Bob, when the banks talked about fear of fraudulent checks or long lines, was this based on actual practice at some time in the past, that they had checked -- had provided these cashing services and this occurred, or is this just something that they think is going to happen?

ASSEMBLYMAN SINGER: I believe, Marie, that they think it's something that has happened. We have not seen, in a long time, that privilege happening in Lakewood, especially to-- The fact is, we were willing to work out an arrangement -- we had to, at the Township's expense -- to help with identification cards with pictures, or something. We understand there's a problem; we spoke to the social service agency, they're willing to work on that. Again, I think there's cooperation from the social service agencies on the Township level; I just -- we just can't seem to get the interest of the banks on this.

ASSEMBLYMAN DOYLE: I assume-- To follow up on that. I assume, though, that you bothered to take the survey because your constituents in Lakewood, and mine too, actually complained. I mean, it wasn't an idle survey. It was done--

ASSEMBLYMAN SINGER: Absolutely right. We were receiving more and more concerns about it. As a matter of fact, the social service agency with the County had spoken to us about it, as a major concern they were having also, John. So, it was a concern both of local residents and also, County-wide.

This is not just Lakewood. Lakewood has one of the major problems with it, but it certainly stretches farther than Lakewood to the County.

ASSEMBLYMAN KOSCO: Okay. Thank you very much.

ASSEMBLYMAN SINGER: Thank you again, Mr. Chairman. And I thank all the Committee.

ASSEMBLYMAN KOSCO: Sam Damiano from the New Jersey Council of Savings Institutions?

S A M U E L J. D A M I A N O: Thank you very much, Mr. Chairman, members of the Committee.

Quite possibly, I might avoid being repetitive and perhaps put a still different perspective on this whole subject. I have a prepared statement; hopefully, each of you has a copy of it before you, and if you'll bear with me, I'd like to very quickly review it and then perhaps try to respond to any questions you may have.

On behalf of the New Jersey Council of Savings Institutions, we're pleased to be here today. It's an organization of State and Federally-charted savings banks.

Savings banks take the position that it's healthy to re-examine these issues from time to time, recognizing the vast changes in the marketplace and the potential for the participants, on both sides of the spectrum, to learn from the discussion.

It's important that we briefly review the recent history of savings banks in New Jersey, and that the effect of deregulation, coupled with an extended period of high interest rates, has clearly changed the way savings banks do business. For example -- and I think this is somewhat unprecedented in that the institution has given me the authority to release their name -- the Perth Amboy Savings Institution, a State-chartered, FDIC-insured savings bank, as recently as 1983 provided most, if not all, of the services referred to as customer-oriented or consumer-oriented. According to the Chief Executive Officer of that institution, the operating ratio of that bank was one of the highest in the State, and losses from check cashing alone was an estimated $120,000 a year.

As you know, the thrift industry has experienced severe disintermediation and deep erosion of net worth in recent times, and through this process some 1,000 institutions nationwide, over the past decade, have disappeared. That's 20% of the industry. On March 31, we saw the end to all interest rate ceilings, suggesting that the cost of funds indeed will inevitably rise, if for no other reason, purely as a result of competition. It is fair to say that today, the industry is giving its total concentration to restructuring and to profitability. The alternative to maintaining a profit margin in today's environment is to curtail the service. I don't think anyone is happy to learn that their savings may be in an institution that is, in fact, losing money.

We believe the market must be allowed to function on both sides of the ledger in order to achieve a complete restructuring in preparation for tomorrow's needs -- the needs of New Jersey citizens and the needs of all of our customers. That's important in the context of this discussion, since we are all aware that the cost of mandated services must be absorbed elsewhere, and suggest therefore that the cost of other services, or bank operations, or interest made available to savers, could be impacted.

The Perth Amboy examination was an interesting one. When the bank determined that 65% of its checking accounts were unprofitable, it adopted a policy of minimum balance requirements and fees that would assure that the accounts would at least break even. The bank was also able to determine, during their examination of this service, that customers were in fact opening multiple low-balance accounts merely to get the benefit of cost-free services. The remedies employed by the bank included making options available to the customer who wished to continue to have free checking service, such as direct deposit of payroll and Social Security checks, and automatic payment of loans, as examples. It did so because it had the legal availability to do so. Mandated services would have limited their availability to prudently manage that aspect of the bank's operation, thus forcing it to continue to operate at a loss.

Assuming the ultimate benefits of bank deregulation, the absence of a demonstrated need for such basic bank services, the potential for abuse, and the negative impact on the profitability of the institution suggests to us that mandatory basic banking concepts are neither necessary nor wanted. All of us know that each financial institution is unique in its customer base, its portfolio, its composition, and its operational requirements. This necessitates that basic banking should be one of many individual business decisions that bank management must make in a competitive, deregulated environment. The adoption of a rational policy by a financial institution in this area should not be pre-empted by the State. The consumers will ultimately benefit from this free-market approach.

Thank you for the opportunity to speak on the subject, and I will try to answer any questions you may have.

ASSEMBLYMAN KOSCO: Anyone have any questions?

ASSEMBLYMAN DOYLE: Sam, according to statistics we've seen, over the last four years, at a time when inflation rolls cumulatively, totally, I would guess, maybe 30% -- that's probably a little on the high side -- bank service charges in this country have risen, on the average count, 107% -- three to four times the rate of inflation. How come?

MR. DAMIANO: I could only speculate, but it has to do primarily with the process of streamlining, restructuring under a deregulated environment--

ASSEMBLYMAN DOYLE: You wanted deregulation. What are you doing different now, four years -- from four years ago, that cost the consumer four times as much to do the same thing?

MR. DAMIANO: With all due respect, I don't think that we were proponents of the deregulatory effort, quite frankly. I think it's just a matter of doing business in a new environment, for savings banks -- having to compete in new markets. I'm not sure whether those numbers would apply to our industry, to be very frank with you.

ASSEMBLYMAN DOYLE: Okay. They're institution-wide, I understand that.

MR. DAMIANO: Well, I have to think too that it's more expensive to do business today that it was several years ago. We certainly were caught up in the heavy outflow of deposits at a time when rates were extremely high -- 15, 16, 17%. That-- For the institution that wanted to compete in that particular market for deposits, he obviously had to find a place for -- that institution had to find a place to reinvest, or they withdrew. Many of the savings banks in New Jersey did not compete in that environment because they were locked into long-term, fixed-rate assets at a lower yield than they could find elsewhere, based on their commitment to extended mortgage lending.

ASSEMBLYMAN DOYLE: Are you going to encourage your institutions to comply with this as promptly as possible, and respond to the surveys being done by the Department as well as by PIRG?

MR. DAMIANO: By all means.

ASSEMBLYMAN DOYLE: On check cashing. What's the problem with having a picture ID person with a public check in his hand -- and I realize there may be people who look similar, there might be people -- bank tellers who look too quickly. I'm sure there's some 19 year-olders (sic) who get served in a bar on that basis. Maybe some of us a lot of years ago once did that -- or more. But--

ASSEMBLYMAN KOSCO: They didn't have cameras in those days.

ASSEMBLYMAN DOYLE: They didn't have cameras (laughs). But given the statistics, one out of every 524 checks, according to the stat we had-- What is the problem, particularly for those people who-- Mayor, Assemblyperson Singer testified to -- having them get a check cashed?

MR. DAMIANO: The answer we hear in our office -- the answer we hear at trade association meetings, on a national level in particular, is that the institution is reluctant -- in fact, they feel it's imprudent to release funds they don't have in the institution, to let go of funds before they receive them, to pay cash on a voucher or a draft or a check before they've actually received it in the institution.

ASSEMBLYMAN DOYLE: Why should those banks, then, if they don't want to release those funds, get funds from this State? I mean, if the State of New Jersey--

MR. DAMIANO: Perhaps--

ASSEMBLYMAN DOYLE: --has a bank account with the -- Anytown, U.S.A., First Savings Bank, State of New Jersey. Deposits, money is in that bank, and some person with a welfare check or a State check, a tax refund, comes in -- doesn't have an account there, and can show a picture ID to cash that check. Why would that check be cashed, and if that check isn't going to be cashed, why should the State do business with that bank?

MR. DAMIANO: I really think you're mixing apples with oranges. I think the bank, if they are a recipient of State moneys, is receiving those moneys, hopefully--

ASSEMBLYMAN DOYLE: Because they gave the best rate.

MR. DAMIANO: Because they offered an attractive rate, a competitive rate; secondly, because their portfolio of lending and investment is within State, thereby stimulating the State's economy. That's a different aspect than cashing a check, truly a different treatment entirely.

ASSEMBLYMAN DOYLE: As an individual, where would you have that person cash his check if he doesn't -- if he's one of the 40-some percent of the people in this country who doesn't have a checking account? Where does he go?

MR. DAMIANO: I think if the institution is assured that there's some guarantee that in the event of an unlikely default -- but in the rare occasions of default that they can be made whole, then you might have some basis for pursuing some resolution to the problem. I don't know, but I think an institution really takes a firm position of being totally reluctant to release cash on presentment of a check that's not in the institution. I think most institutions -- in fact, ours -- are certainly more than willing to make those funds available the moment they receive them, and that's the question of funds' availability.

ASSEMBLYMAN DOYLE: Yeah, that's a separate question.

MR. DAMIANO: But it is a real problem.

ASSEMBLYMAN DOYLE: Two questions just -- straight -- I mean, an easy, one-word answer. What is the average cost, if you know, amongst your institution's actual cost for check bounce? (negative response) Don't know? Do you know the range of charges imposed by your institutions for a bounced check?

MR. DAMIANO: I'd have to say a $10 figure sounds--

ASSEMBLYMAN DOYLE: As to what they normally charge?

MR. DAMIANO: As to what they normally charge.

ASSEMBLYMAN DOYLE: That, to me, doesn't sound too out of line with what it might cost, either, by the way.

Lastly, what is the average amount of time your institutions will credit a check drawn on a New Jersey bank for an account holder -- a veteran account holder? One day, two days, three days -- what's the hold?

MR. DAMIANO: I believe, on the average, it's within 48 hours.

ASSEMBLYMAN DOYLE: And, compared to that 48 hours, how quickly does that bank have use, through wiring and however else, of those funds?

MR. DAMIANO: Basically, around the same period of time.

ASSEMBLYMAN DOYLE: Okay. Thanks, Sam.

ASSEMBLYMAN KOSCO: Any more questions? Yes?

ASSEMBLYMAN KARCHER: In reference to the savings institution in Perth Amboy?

MR. DAMIANO: Yes.

ASSEMBLYMAN KARCHER: You say that the information of the Chief Executive Officer -- that they had, number one, one of the highest operating ratios. And the second one is that they lost -- their losses from check cashing alone-- Now, did you mean check cashing alone, bad checks, or their operation?

MR. DAMIANO: Operation.

ASSEMBLYMAN KARCHER: The operation (indiscernible) -- the second page says 65% of their checking accounts were unprofitable.

MR. DAMIANO: Yes.

ASSEMBLYMAN KARCHER: In response to the questions of Mr. Doyle, and reviewing a bit of the history of the savings institutions in this State -- and in the country -- there were a lot of fixed-asset loans, etcetera, etcetera -- that there was a drive that started in 1979, 1980, 1981, for savings institutions in particular, who had such a large portfolio of mortgages, for a new additional sources of funds. Isn't that correct? Wasn't that a part of that history as well, that there was a massive drive, as interest rates started to escalate, and savings institutions -- savings and loans, even banks, said to themselves, you know, "We've got this -- the interest rate is now 15%; we're paying out 15%, and we have all this money in here that's only earning us six-eight, nine percent. We have to get new money, to loan out, at a higher rate so that we can pay CDs at 15." Isn't that what happened? I know I'm doing a very short--

MR. DAMIANO: In effect, yes.

ASSEMBLYMAN KARCHER: And one of those methodologies for securing new money to put to work was for the savings institutions, such as Perth Amboy Savings, to involve themselves in massive efforts to secure a checking account, isn't that correct? Huge full-page ads, radio -- everything, across the State, the institutions-- I'm not being critical, but that's actually, factually, what happened, wasn't it?

MR. DAMIANO: Not to my recollection. We've been in the checking account business for 25 years, so I'm not sure whether we--

ASSEMBLYMAN DOYLE: Savings -- I think Al's question is probably more to the S and L's.

MR. DAMIANO: Savings bank have had checking account authority for a quarter of a century, so I'm not sure that we were looking at checking accounts as a source of funds. Our efforts at that particular time were to balance well whatever we could in the way of competition, for funds with money market mutual funded industries that were paying exorbitant rates, heavy outflows of cash from the banks.

ASSEMBLYMAN KARCHER: I understand; okay. Now, what exactly -- why would-- So, let's narrow it down, then, to the 65% of the checking accounts at this institution that were unprofitable. What exactly -- what services were rendered that multiple accounts would have been somehow beneficial to anyone -- low-balance, multiple accounts? I mean, I truly don't understand it.

MR. DAMIANO: Minimum balance is simply enough to cover the cost of a check that they would write. The balance of the-- The majorities of their funds that were kept in other accounts, that would yield rates of interest, so perhaps another way of saying is, they were looking for low-cost services.

ASSEMBLYMAN KARCHER: I can understand that, with regard to one account -- one checking account, to keep a minimum balance in to utilize that. But I can't understand why there would have been multiple accounts from the same party.

MR. DAMIANO: The fact is, this is what the bank reported to us, and we did not question the institution.

ASSEMBLYMAN KARCHER: Let me go to the ultimate aspect of this thing. The auditor comes in -- the State regulator, the Federal regulator comes in and they do their audit, and they see an "I" operating ratio. And they see a loss in this check cashing, and this -- not really check cashing, but maintaining the availability of checking accounts. It's not the same thing as-- Check cashing losses technically are bad checks. With the maintenance of a check availability, or a checking account availability, when the auditor comes in, would it be typical for the State auditor to say, "You have a high operating ratio, bring it down; you have a loss, wipe it out -- do something"? In other words, what I'm asking you is, is it not typical for the State agency, the Department of Banking, to encourage an institution hypothetically -- or, in this instance, Perth Amboy Savings directly -- to eliminate these services in order that they get their operating ratio down, and that they eliminate this loss?

MR. DAMIANO: Perhaps indirectly, but that's ultimately a management decision.

ASSEMBLYMAN KARCHER: But wouldn't it show up in the audit report? Wouldn't it--

MR. DAMIANO: Yes, it would.

ASSEMBLYMAN KARCHER: --show up in the audit report -- show up; there's a (indiscernible) -- "You lost this, and do something about it" -- wouldn't that be the norm, I mean, the obvious normal response for the Board of Directors to say, "Well, we got our audit here, and the State Banking Department is really down on us for losing out on $20,000 in checking. We'd better" -- you know, they say, you know, "cut it out."

MR. DAMIANO: Two things occur. The auditors-- The examiners will, in effect, say that. They'll use peer averages, similar-type savings banks in the State; perhaps they're operating on a lower ratio -- they'll make the management aware of that, and suggest that perhaps there's some work that needs to be done to bring that, perhaps, into a more realistic focus.

But more importantly, they're concerned that the losses may begin to siphon off what is considered the net worth of the institution be maintained at certain levels.

ASSEMBLYMAN KARCHER: So, actually, therefore, the banking exam-- the bank examiners are caught in a conflict, are they not? The Department of Banking -- and you heard from Mr. Jaworski before, who testified that they are to maintain a balance between the two interests that they see philosophically as their role in life. But when their examination comes in, and they've done that examination, are they not caught -- in your opinion, I'm not asking you to be, you know--

MR. DAMIANO: I understand.

ASSEMBLYMAN KARCHER: But isn't that an inherent conflict? On the one hand, they are to protect the public and provide and encourage the banking industry, including savings institutions, to provide a range of services. On the other hand, their whole dynamic is to make sure that this bank, or this institution, is solid. How can they serve both masters in that regard?

MR. DAMIANO: Well, I think there's--

ASSEMBLYMAN KOSCO: Let me just-- I don't know if that's the case, though. I think that what you're talking about-- When a bank examiner goes in, he goes in there to examine if the procedures have been properly followed, and that there's no irregularities in the process; and that the banking institution -- the financial institution is doing things according to what the rules say.

Now, if a financial institution -- if an examiner would find a $100,000 loss over here, and a $100,000 gain over here, he's looking at an overall bottom line picture of the financial institution. He might not be concerned about the profitability of that institution, as long as the bottom line is showing up that the financial institution is healthy. If they choose to lose money in one department, because they--

ASSEMBLYMAN KARCHER: But that's not what was testified to. No, I shouldn't say testified to--

ASSEMBLYMAN KOSCO: What I don't understand is the line of your questioning--

ASSEMBLYMAN KARCHER: It's a question of--

ASSEMBLYMAN KOSCO: How does it affect consumers is what we're concerned with.

ASSEMBLYMAN KARCHER: Well, what I'm pointing out, Mr. Chairman, is that the examiners -- the examiners will use norms, won't they? They will have each category, and -- you know, line by line, and say, "Here's the mean. Here's the mean norm for operating ratio. Here's the norm for this, here's the norm for that, here's the norm for this. You exceed here, you exceed there, you exceed here, you're under here, you're over here. And we want you to get closer to the norm." And that kind of pressure-- What I'm trying to point out is that the pressure from the Banking Department, in real life -- in real life, the pressure from those examiners and those auditors is the examiners -- the bank examiners -- is to make sure that they do not have losses. So, that if this institution -- this given institution -- shows these kind of losses, the Department would be caught in a bind. The Department would then-- In practicality and in the real world, Mr. Chairman, what happens is that the Banking Department, through its examiners, isn't -- has to put as a second priority consumers' interest, in order to put the pressure on that given institution to eliminate that particular item (indiscernible) non-profitability.

ASSEMBLYMAN KOSCO: Unless the loss that you're talking about was in the Department that provides the most service to the consumer, and if you're making a profit in your sales department, then certainly, you might be inclined to give some of it away in your service department, in forms of services or policy adjustments, or just plain good will. So, I don't know if you -- I don't know how you-- Again, I would guess, the bottom line is in the procedures.

ASSEMBLYMAN KARCHER: We really have--

ASSEMBLYMAN KOSCO: I don't think that's fair questioning, so I'd like to--

ASSEMBLYMAN KARCHER: No, it isn't. It's just that it came up.

What we really should do, Mr. Chairman, if I may suggest to you, is to find out from the Department how many instances -- in how many instances examiners have in fact written reports recommending that people be disenfranchised or that the given institution disenfranchise people, and how many times it's been shown up in audit reports or in examination reports, where our institutions in the State have been encouraged to de-market people. I think that would be-- Sam, you were just the guy in the seat when the thought struck me.

MR. DAMIANO: Well, let me just say, I'm not going to speak for the Department, obviously.

ASSEMBLYMAN KOSCO: Good.

MR. DAMIANO: But there are a couple of considerations that are taken into effect when an examination is conducted. Overall, it's the safety and soundness of the operation. They'll look not only at the security of the deposits--

ASSEMBLYMAN KARCHER: Right.

MR. DAMIANO: --but also, whether there are any abuses.

ASSEMBLYMAN KARCHER: Right.

MR. DAMIANO: And I think it speaks to both end of the spectrum as well, in that case.

ASSEMBLYMAN KARCHER: I think, though, in all fairness, it speaks that-- The typical examination speaks to the security and the soundness of the institution, not to the consumer interests, in that every examination that I've ever seen--

MR. DAMIANO: I'll defer--

ASSEMBLYMAN KARCHER: It ignores or eliminates it. It's not even a part of the mix, when you get into an examination. It's a question of who's side the Banking Department is on.

ASSEMBLYMAN KOSCO: Any other questions?

ASSEMBLYMAN GENOVA: I would like to just add a personal note, echoing what the Mayor of Lakewood mentioned about welfare recipients having difficulty in cashing checks and all other types of problems that senior citizens have at banks. The personal experiénce that we have, one of our banks that our family does business with in our community -- and I sit on the governing body in my hometown, I've been a member of the Town Council there for six years -- and I have an IRA in this one bank. I have my children -- my three children's savings accounts -- in that bank, a checking account in that bank.

ASSEMBLYMAN KOSCO: --screwed up your statistics. (laughter)

ASSEMBLYMAN GENOVA: When I take my Township of Union salary check to this bank to cash it, they put a 72-hour hold on it. And it's within our community, and we utilize that particular bank as a depository for township-owned funds.

ASSEMBLYMAN KOSCO: Who knows better than them?

ASSEMBLYMAN GENOVA: And it's (laughter)--

ASSEMBLYMAN KARCHER: Don't ask us to be pressed for the answer to whether or not we'd cash a check for-- (laughter)

ASSEMBLYMAN DOYLE: Look at it this way. At least you have an account. If you didn't, they wouldn't even cash it. (laughter)

ASSEMBLYMAN KARCHER: A 72 year old, rather than 72 hours.

ASSEMBLYMAN KOSCO: Thank you, Sam.

Okay. Neil Fogarty, from the Consumers League of New Jersey?

While I bring Neil up here, I have two other people who I am aware of that want to speak: Raul Hernandez and Al Griffith. If there's anyone else who wishes to speak, if you'd let me know, because we're coming up at about five minutes to 12. We'll just continue right on straight through, or if we have another half a dozen people, maybe we'll take a break and then come back after lunch. I'd just as soon continue right straight through, and keep on going. Okay.

Neil? You're up.

N E I L   F O G A R T Y: I'm Neil Fogarty. I'm the President of the Consumers League of New Jersey. I also sit on the Federal Reserve Board's Consumer Advisory Council, and I'm here speaking on behalf of the Consumer's League.

I believe the whole Committee has a copy of my prepared remarks. Basically, to summarize it, the way I see the problem in consumer banking right now is that the middle class are being nickled and dimed to death by these service charges. And a good percentage of them -- people that live paycheck to paycheck -- are being kind of pushed out the bank door. And the low income community, a great percentage of them already has been excluded. I think the figures depend on which year the studies are done, but the Federal Reserve Board study for 1983 reported that 39% of low-income families didn't have checking accounts. And as for minority low-income families, the figure was 12% that didn't have checking accounts.

ASSEMBLYMAN KOSCO: Seventy-two percent.

MR. FOGARTY: You're right. Seventy-two percent of low-income minority families, compared with the general population of 12%.

When you consider that the average consumer who had an income of 10 to $20,000 only has -- the median is $400 in checking, you can realize that a service fee issue is hitting a lot of consumers. And it's getting to the point where you can actually lose money by putting it in the bank. I've quoted this little study done by a State Senator from Manhattan, about New York banks. And if you had $300 in savings and $300 in checking, you'd actually lose money. The bigger the bank, it seemed, the more money you lost. At the little banks, like Apple Savings, you'd come out at the end of the year $17 ahead, but at a Chemical, you'd come out minus 119. That's the cumulative effect of all those transactions that incur service charges.

Basically, what we think is -- you know, we recognize that banks have costs for providing a checking account. But we think that the banks are selling the same product at two different prices. In effect, it's wealth discrimination. If you have $10,000 in your checking account, you know you're not going to have to pay any fee. But if you have $400, like the average Joe who probably works in a factory somewhere, you're going to have to pay these fees. And if it's the same checking account, we think it ought to be the same price.

We also recognize, as previous speakers have done, that banks are special businesses. Their deposits are insured. They are in essence--

ASSEMBLYMAN DOYLE: They pay for that insurance, though, don't they?

MR. FOGARTY: That's true, they do pay for it. But it's partially a risk-free business. In the last two years, the government saved the Continental Illinois Bank from bankruptcy. It is now partially owned by the United States.

ASSEMBLYMAN KOSCO: Did they say the consumer?

MR. FOGARTY: Certainly. It's an important-- Since the Depression, it has been an important national policy that banking be -- that bank deposits be insured to protect the consumer, and that the banking system be safe and sound. And as a result, we think the banking business has special obligations to the community.

And the no-frills are basic banking idea, is not really a radical idea. I mean, basically, what it is, is the type of bank account that everybody had 10 years ago. I mean, probably around this table, most of you probably had a route, like I did, at one point. And banks loved to have little accounts. They don't love that anymore. As Assemblywoman Kalik said, they seize little accounts.

So, we thing that since regional banking is right around the corner in New Jersey, that this sort of problem may get worse. Our fear is that once bank mergers are allowed across state lines, that there are going -- that small banks are going to be merged into big ones, and that as a result, there's going to be fewer banks. We think that'll mean fewer choices for the consumer. If you have five banks in a town now, maybe you'll only have two banks in a few years.

The study that was done in New York about these saving charges indicated that the bigger banks charged more service charges. And so we think that since the banks are going to be allowed the privilege of interstate bank mergers, that's another reason why they have an obligation to the community. So, we are in favor of the basic concepts that you heard before, from Assemblywoman Kalik and from Miss Dooley of PIRG. We think that basic banking accounts is a concept which most people support, by-the-by.

At the end of my testimony, a survey was done by the American Association of Retired Persons, not of their members, but a random sample of consumers aged 25 or over. Fifty-seven percent of consumers were in favor of basic checking accounts, and 50% of consumers thought the check hold times were unreasonable. Whenever we sit down in our group, we go around the table. Everybody has a little bank horror story that happened to them or to their friends. It's gotten so bad that a woman in Bayonne went to the Pamrapo Savings and Loan of Bayonne. She had a cashier's check made out by that same institution, signed by the branch manager. After arguing with the branch manager himself for two days, they still refused to do it. She had to give it to her mother-in-law to cash it.

ASSEMBLYMAN DOYLE: To do what?

MR. FOGARTY: To cash the check. She was a non-depositor. She brought a check that was a cashier's check, signed by a Pamrapo Savings Bank -- by its branch manager. She presented it in person -- skipping the whole system, she presented it in person. The uniform commercial code requires that a bank pay its own checks. They refused. Why? Because she wasn't a depositor. She had been a depositor-- She, with her former husband. In fact, this -- her former husband brought the check to pay her divorce settlement.

We also have-- I got a personal complaint from a woman in Jersey City. She brought in a cashier's check. She needed cash to buy a car, and she thought she would deposit it in her checking account at the Commercial Trust Company in Jersey City. They said, "Sorry, we're going to impose a hold on your certified check." She said, "How long?" They said, "Well, we won't tell you." But any period of time, in those situations, is ridiculous. The Federal Reserve Board states that checks are paid -- I mean, if you take the whole universe of checks, all of them are paid, on the average, between 1.6 -- in 1.6 days. That's including the ones from distant districts, as well as the local Federal Reserve district.

The risk is minuscule. Only one percent of checks bounce, and of that one percent, only one in 5245 are ultimately a loss. By the time the check comes back a second time, almost all of them are made good the second time around. So, only-- If you take one percent and divide that by 5245, that's the number of checks that are really bad, and the banks take a loss on it. The proposals that have been made even offer some exceptions, if the bank thinks that they're about to be stuck with a bad check.

So, we think that this combination-- Well, as a result we think that there ought to be a schedule. Massachusetts, New York, and California already have state-mandated schedules, and I think the New York one has been in effect for at least 18 months or two years. None of the New York banks have gone bankrupt now. We haven't heard of any banks in California going bankrupt. In effect, the concept of a check-hold schedule and basic banking really just call for a return to the basic friendly banker concepts that prevailed more than 10 years ago. I have a bank, and they give me immediate availability on my paycheck. They don't have to; they may even have a policy against it, but they do. And why do they do it? For good customer relations, and also, because they aren't really losing too much money from these check losses.

ASSEMBLYMAN DOYLE: I have a feeling if your check was three times as much, they'd even be more likely to do it.

MR. FOGARTY: Probably they would. They probably would.

So-- And, Assemblyman Doyle, you also asked before of the savings bank executive, how many days did they hold the check. The PIRG study from January 1985 basically says exactly what the policies of each bank are. This is my copy, but I'm sure PIRG would be happy to send you one. I just happened to have it with me. But those were the check -- the actual check hold delays that were in effect in January 1985, when they did their study.

ASSEMBLYMAN DOYLE: It's too early to say whether the disclosure is going to shorten this period (indiscernible), though my feeling is, it probably will somewhat.

MR. FOGARTY: Well, I have my doubts. All the disclosure regulation requires them to do is to tell their own customers what their policies are, and that -- I think the idea was put forth before, about having them published in the paper, would do more than the current regulation will do. But we also believe that there has to be disclosure, that people shouldn't be surprised by these accounts -- you know, when you sign up for a bank account, when they say you're subject to the rules and regulations. And then, you know, the rules and regulations may change while you're not looking. And if it's just posted in a bank lobby somewhere, you're really not going to know where they are.

So, we favor proposals on disclosure. But we think that the time has come to institute reasonable check-hold policies, and that -- this Committee -- I think that the proposals put forth so far are reasonable, and you could also look at what the other states have done.

In essence, what we think is that the combination of high-minimum balances, service charges and hostility to cashing government checks is driving large segments -- well, certain segments of the population out of banks. And those people are the poor, and also the people who, while employed, don't have a lot of disposable income. You know, you hear about statistics like, United States is not a nation of savers. We only save about six percent of our income, and in Japan, they save some incredible amount -- I don't know what it is, 25% of their salaries or 30%. Well, these policies do not foster savings. And we think that these policies are reasonable; these policies are nothing other than what the banks used to do 10 years ago. We think that they would serve important social policies, like providing everyone with access to the bank system, and fostering savings, which, of course, savings can be invested and used to build businesses.

Basically, we think that basic banking is a basic right. And since some banks are offering it but not all, we think it's time to even the scales for New Jersey consumers.

Questions?

ASSEMBLYMAN KOSCO: Thank you, Neil. John?

ASSEMBLYMAN DOYLE: No.

ASSEMBLYMAN KOSCO: All right, thank you, Neil. Thank you very much.

Our final speaker is Mr. Raul Hernandez, of the Hispanic Association of Ocean County?

MR. FOGARTY: Mr. Hernandez was here before; I don't know what happened to him. My understanding was, Mr. Hernandez is from Lakewood, and that he is one of the people who drives the people with government checks outside of Lakewood to find a bank that will cash their checks. I don't know what has happened to him, though.

ASSEMBLYMAN KOSCO: He may return. Thank you, Neil.

Al, I'm sorry. Al Griffith, from the Bankers Association.

ALFRED GRIFFITH: I believe the staff has copies of the testimony.

Mr. Chairman and members of the Committee, my name is Al Griffith and I am Vice President of the New Jersey Bankers Association. Our Association represents every commercial bank in New Jersey.

We'd like to compliment Chairman Kosco for providing a forum to discuss consumer-related banking issues, and to the other members of the Committee, who have always attempted to promote the interest of consumers and allow banks to serve that interest. We welcome the opportunity to cooperatively work with you in addressing consumer needs. We respect and appreciate the role of legislators and regulators in trying to provide for social and economic needs, within our nation's free enterprise system.

As private, stockholder-owned institutions under law, our banks are in a highly-competitive financial services market, competing with other banks and thrifts as well now as major securities, insurance, retail, and other non-bank competitors -- the competition we did not have 10 years ago. Many of our consumer service and protection issues, being advanced, have developed due to a significant change in the way banks operate, which is profoundly the result of bank liability deregulation, which is something we also did not have 10 years ago.

The Federal Depository Institutions Deregulation Act of 1980, along with the Garn-St. Germain Depository Institutions Act of 1982, established a five-year phase-out of all previous protective interest rate ceilings on savings and time accounts, as well as checking accounts, which once had a prohibition on paying consumers interest on such accounts.

The phase-out, which was recently completed in March -- I would just step aside from the script briefly and indicate that the last phase-out was on the lowest balance accounts, passbook accounts, and so forth, perhaps some of the accounts that bring forth some of the greatest sensitivity to the subject before us -- as the last leg of a five-year phase-out, has significantly increased the cost of funds for banks and thrifts.

Many, but not all, loans, accounts, and other bank services were once subsidized by all savers who received a less than market return on their deposited funds. That is no longer true.

Public policymakers realized that the payment of a reduced level of interest was not entirely fair in the past, but they felt the availability of funds for bank assets, such as mortgages and other socially desirable loans and services, was socially and economically necessary.

Public policymakers also realized that below-market, anti-competitive liability deposit ceilings were necessary for the safety and soundness of banks and thrifts as they once primarily competed against each other. They were concerned that interest rate wars would lead to the bankruptcy of a certain number of institutions, which would lead to a serious crisis in public confidence.

Even though banks and thrifts are insured by insurance programs which they -- not government -- primarily fund through annual assessments, policymakers felt that the absence of liability competition would assure safe and sound institutions.

However, while the wall of protection for depository institutions was designed to protect them against each other, the wall eventually imprisoned banks which found new aggressive non-bank competitors in the 1970s able to capture a significant share of their deposit business.

While banks could not pay market rates, securities, insurance, retail, and other non-bank competitors, who did not have the same protective ceilings, stepped forward and provided market rate fund services to a major share of the bank and thrift customer base.

On top of that, a number of the previous unrelated businesses, such as Sears, Merrill Lynch, etc., became related into conglomerate type service providers who, without the same traditional form of protective regulation as banks, have and will continue to provide a diverse array of financial services under one roof. Consumers will be able to enter a Sears store and have access to insurance, real estate, securities, and other credit-related services, including plastic available.

Our Association, along with other banks as well as our regulators, including our State Banking Department, in the late 1970s and early 1980, asked Congress to eliminate the traditional liability wall so we could regain many of our customers and effectively compete, because disintermediation became a serious problem for banks and thrifts at the turn of the 1980s. Many thrifts had an extremely serious problem as the fixed-rate, long-term mortgages they made at lower rates could not offset the increased cost of funds on their liability accounts, even though the latter was still not entirely competitive with the non-banks.

I might just depart slightly, in light of the fact that this area was covered in the question raised by Assemblyman Karcher to Mr. Damiano. We were slightly different in the way we approached the question of interest rate deregulation in the late '70s. Our Association decided to petition Congress to give us a competitive rate, even though we realized we would probably be paying more. On the other hand, we felt it was absolutely necessary in order to compete with the non-banks which did not have the same limitation. So, we went at it a different way, and the way that we went at it pretty well represents what Assemblyman Karcher mentioned before.

Congress, ultimately and reluctantly, agreed to eliminate most of the liability or deposit ceiling barrier. But most importantly, they would not at the same time, and have not since then, due largely to opposition from our securities, insurance, and other non-bank competitors, eliminated the traditional restrictions on the asset side of the bank's ledger which were, and are, necessary to offset the new increases in cost.

So while some may contend that banks are deregulated due to the elimination of liability ceilings, they are not entirely deregulated and won't be until they have the same freedom on the asset side of their ledgers. Such freedom would allow banks to not only obtain other forms of income to offset deposit as well as operational costs, but would also allow banks to fully compete in what is developing as a comprehensive financial services market.

Since Congress remains unwilling, due principally to political pressures, to allow increased asset revenue producing activity, would the State Legislature be willing to grant banks the same right to provide the variety of services available in a Sears store as a trade-off for finding exposure to increased costs? Lifeline legislation has been introduced in New York and, in recognition of the issue, banks complying with the provisions of the bill -- which has not become law, however, as yet -- would receive insurance powers as an offset.

To the credit of our State Legislature -- and the members here -- at least some asset relief was granted when restrictive asset, that is, loan rate ceilings, were eliminated in 1980, as other nearby legislatures were doing similar things in recognition of Federal action. The action was also extremely important then because certain saver accounts, such as CDs, were at rates substantially higher than the ceilings on most loans and, thus, credit was restricted and unavailable to a large segment of the New Jersey market.

While increased loan rates helped to provide some offset from the new increase in the cost of funds -- again, due to deregulation of savings instruments and liability instruments -- bankers realized that in a highly competitive marketplace there was, and is, also a limit to what borrowers can, and should, be charged.

Bankers realize that they have an obligation to provide credit to businesses, especially small businesses since they have traditionally been a bank's major customer, and bankers realize the health of the community -- which includes the economic well-being of its citizens -- it shares, depends upon the availability of business credit at rates the business can afford. So the idea that perhaps if we could increase our loan rates and our loan demand to offset our increased costs-- There is a limitation as to what we can do in that area. That is particularly evident today, when we are really actively competing in the loan market, not just, again, with our fellow banks, but with other competitors.

To offset the increased costs, banks have considered reducing expenses by eliminating some personnel, cutting back on unprofitable programs and facilities, etc. However, banks have had to be careful in cutting expenses because they must provide as many services for their local customers as possible or they will lose them. Banks cannot afford to lose customers to others because the lost customer relationship may become permanent.

As a result, we then must turn to a no-choice decision made by banks that represents a concern to those seeking a change in the way banks do business today.

Because interest expense as well as operational expense has increased substantially and has not been entirely offset by loan income or other asset activity, banks have had to learn to reprice their services so they can pay for themselves.

Services once subsidized by lower depositor rates and interest-free checking now must be priced. Again, in the 1970s, 10 years ago, we had the interest-free checking account. Even though the banks had a certain amount of cost, it represented a substantial amount of money that banks had available for lending purposes, etc., and that could help to offset some of their costs. That no longer is around, as again would be the protective less-than-market savings account rates, when the savings account was basically the only game in town. Service charges and fees, therefore, have become essential as banks attempt to meet their costs and remain competitive in a market shared no longer only with other banks and thrifts, but also with a wide range of other interests.

Unfortunately, explicit pricing of bank services became a new phenomenon in the 1980s. A Federal Reserve Study on bank service charges and fees stated: "Explicit pricing of consumer products and services is customary among businesses in the U.S. economy. Yet, in commercial banking, the recent evolution toward explicit pricing of products and services is often viewed by the public with skepticism and distrust.

"Some of the widespread consumer skepticism regarding the justifiability of increases in bank fees may be traced to poor communication between bankers and their customers. To a large extent, this skepticism may reflect the fact that over the years customers of depository institutions became accustomed to receiving many banking services and products without explicit charge. In fact, in many cases, consumers expected to receive premiums -- monetary or otherwise -- for doing business with a depository institution. Given this traditional environment, it is not surprising that many consumers have met the end of the 'free banking era' with skepticism.

"While commercial banks may have offered consumers products and services without charge, they were never free. Rather, consumers paid for these services in other ways; principally in the form of foregone interest on funds deposited in regulated accounts paying below market -- although often the maximum authorized by law -- interest rates."

Bankers have always realized that they are a citizen in their communities and have attempted to support those things necessary to sustain their communities. Who has usually been tapped when philantropic activities, such as the United Fund and the like, were organized? Quite often the bank and its personnel. Banks have made every effort to be good citizens in their communities and help wherever possible where human needs have to be met.

Quite honestly, bankers have also realized that it is good business to attempt to meet community needs. Former Fed Vice Chairman Preston Martin once said: "The bank that does not meet local credit needs is clearly not going to be very profitable in the long run. People expect that the bank that holds their deposits is also going to meet their credit needs. If there are unmet local credit needs, other banks will be attracted into the market."

And, while banks have had to reprice many of their traditionally free or subsidized services, we believe most banks continue to provide free or minimum-charge savings account services for senior citizens and young people, along with other socially desirable services.

Most bankers I have discussed the issue of consumer banking services with feel that any basic low-cost service imposed by government on depository institutions should be available to those who are needy. As an example, persons who qualify for welfare or food stamps, as well as minors and senior citizens who might be the type of citizen deservant of special consideration.

Thus, a number of other basic policy considerations include questions as to who rightfully should receive what service and under what circumstances? The question must be raised as to who should subsidize the service if it is required to operate at a loss and who should assume financial responsibility should losses be incurred? Should not our non-bank competitors be required to provide a comparable level of basic services for their customers?

Should an income or needs test be established perhaps by verification from the Department of Human Services, county welfare boards, and the Office on Aging? Who should monitor the status of such citizens on a regular basis to be sure the persons still qualify?

Many of our banks have, or are beginning to try to find, ways to service their less advantaged customers in a manner each can afford. I think, again as I depart from the script, that this becomes particularly significant in more recent times because, again, over the early years of deregulation we were really dealing with deposit and time-deposit interest deposits that were essentially geared to people who were more affluent. But as we moved to the tail end of deregulation of the deposits and we moved to the lower balance deposits and, in effect, lower-income people, the banks have now had to begin to think about how they are going to restructure that. So, some of the pressure we're seeing, again, and the concerns we see in the passbook and savings areas, as an example, will really begin to be seen and will be tackled by the banks as they decide how they are going to handle this passbook situation now, again, that that area of the bank has been deregulated, effective March -- last March -- a month ago.

Our Association's Executive Committee met recently, discussed the subject of this hearing and related subjects as are on the table, and asked the Committee to consider adopting a bill or joint resolution which would list those specific services necessary for needy customers and give depository institutions one year after enactment to develop a basic checking product to serve consumer needs before undertaking mandatory legislation. The Commissioner of Banking -- though we haven't really discussed this with her -- might be requested to monitor the degree of development of such services by depository institutions in the interim period. Such an effort would give banks an opportunity to test market a product so that if mandatory legislation were necessary, it might have more realistic components.

Just as an aside, no matter-- If there is ever anything that is specified in statute regarding what fee should be charged in terms of exact amounts, what kind of services should be charged -- free, as an example -- how many checks should be cashed, etc. -- if it ever becomes that specific in statute, the big question will be, how do we know that that is going to be the kind of pricing and the level of service that will allow that type of product to be offered, at least at a wash? If it is not going to be issued and released at a wash, the question comes back again, who is going to absorb the loss, the stockholders or the bank, the level of government which imposed the loss, etc.?

So, perhaps the thought of allowing the institutions to do some experimenting with a basic service -- and I know some are doing it basically now in terms of senior citizen and youth accounts, saving accounts, etc. and some others are contemplating basic checking type accounts-- We might be able to get an idea as to what is doable and what isn't. Again, if we statutorily impose something, we might have an idea that whatever we statutorily impose would be something that would at least pay for itself, or again if it didn't, would develop some mechanism to be sure that it was properly subsidized.

We would be most willing to work with the Chairman and the Committee in reviewing ways to provide legitimate human needs. We realize as a citizen in our community and our State that we have social and economic responsibilities.

We look forward to working on a cooperative basis with the Committee and stand ready to have any of our bank's personnel available to help as well. Thanks very much for your consideration.

I might say that I didn't-- We thought as to whether or not maybe we should have some of our more expert personnel here today.

ASSEMBLYMAN DOYLE: There is no one more expert than you, Al.

MR. GRIFFITH: Well, I don't know about that. The inner workings of the bank -- serious problems, John. A high school teacher 16 years, it doesn't work.

ASSEMBLYMAN KOSCO: Questions?

ASSEMBLYMAN DOYLE: If I may, Mr. Chairman. Al, thank you very much. I meant what I said about nobody more expert.

I wish in some ways that we weren't here, that all of this weren't a problem, but there are, I think, legitimate complaints and concerns about check holds, about the ability to cash government checks, the no-frills account, and just the whole idea of what the charges are -- are they fair, and how they ought to be disclosed. If those problems would go away volunteerism would work, but I don't see them going away.

First of all, to understand what the problem is, I assume the members of your Association would be urged to cooperate with the Banking Department study, as well as the PIRG study.

MR. GRIFFITH: Yes, very much so. We will be hopeful that the survey that the Department puts together, you know, kind of accurately represents the financial aspects of the bank, so that when numbers are generated and so forth, we can see that they are relatively related to a particular service that has a particular value. But, yes, we will, John.

ASSEMBLYMAN DOYLE: Bounced checks-- Are you aware of any studies done by any individual banks -- without naming them -- as to what they charge for bounced checks?

MR. GRIFFITH: It varies. According to the bankers I talked to, it varies bank by bank. There are internal costs; there are operational costs. There is also another element in it, however, that I don't think was mentioned, which I think is significant and adds to the cost -- and I guess it is a different kind of cost -- and that is the deterrent value of a charge on a check. When a check is overdrawn, there is, in effect, a violation of a trust. It could be perceived almost as a criminal type thing, but it is not. Part of the evaluation of determining a charge on a bounced check, as an example, has to take into consideration the deterrent for people from doing that.

So, we don't have-- I know probably banks do-- They certainly have their own internal costs that they have to consider, as well as the deterrent, as well as what their competitors down the street are probably charging as well.

ASSEMBLYMAN DOYLE: Give or take a buck or two, is ten bucks a fair charge, 15 maybe? Is that the range, 10 to 15?

MR. GRIFFITH: It probably varies in that area, yes.

ASSEMBLYMAN DOYLE: In terms of actual costs as well as the charge?

MR. GRIFFITH: I can't really say with certainty, John.

ASSEMBLYMAN DOYLE: Okay. With respect to the deterrent effect and what the charge is, let me give you two hypotheticals. One is a fellow who is a pretty good businessman in town. He has a decent size account with the bank. He's been there and is a good customer, and somehow a check of his -- and maybe an account in five digits -- maybe his check bounces. His bookkeeper made a mistake; he made a mistake, whoever did, he or his spouse in the house made a mistake. It may be a sizeable check, a few hundred dollars. Maybe he has done it a couple of times that year.

Now let me give you the second, and you know what's coming. A poor guy, or a woman, we'll make it a single parent, on the proverbial, you know, tough times. Everything is going bad. He or she bounces a $20 check and gets hit with a charge that is probably as much as the check almost. The first person doesn't get hit with the charge, and you know why, because he called, he is a good customer. It shouldn't happen.

When we talk about subsidy, who is subsidizing who? Is that example so far-fetched?

MR. GRIFFITH: Well, other than just that, I think it is probably a matter of practice. As an example, if a check bounced the first time, it is very likely the bank would probably reach out for the person who is the customer and make sure his account is taken care of, that there is no charge, probably no matter what the income level of the person is.

But, if you get a situation where it becomes a matter of practice with somebody, then I think probably that courtesy isn't extended. So it's not just the balance that the person has in the bank that might determine whether the charge is going to be levied. It may be the frequency upon which these things are bounced that causes the bank to decide, regardless.

ASSEMBLYMAN DOYLE: Regardless. But there is-- I don't think I would be wrong in saying that there is, on occasion -- it might vary from bank to bank -- some wealth discrimination as part of good business practices.

MR. GRIFFITH: Sure. I think in any business, you know, no matter what you are -- banker or whatever you do for a living or have control over -- what kind of benefit you can give your customers-- If you have a particularly good customer, you may extend extra courtesy to that person when time prevails. I mean, that is not unrealistic to say.

ASSEMBLYMAN DOYLE: Is there any problem with respect to -- just getting off the subject of this last question on bounced checks -- if the Commissioner's study indicates that the cost determined is to be $12, or whatever it is, giving the Commissioner the right to set, on an annual basis, the highest multiple of $5 over the average charge she finds, that's a maximum charge for a bounced check? Philosophically, is there a problem with setting that kind of a limit?

MR. GRIFFITH: There may be; I don't know. I guess there is also an implied question here, too. There is something I did not mention during my testimony which I believe is very important. That is the fact that when we start beginning to get into areas of limitation of charges, etc., the question is going to arise, will such a requirement apply equally to a nationally chartered bank? Will a nationally chartered bank be subject to that limitation, or only a State-chartered bank?

ASSEMBLYMAN DOYLE: Can we? If we were to say that is the problem, that's the real problem--

MR. GRIFFITH: I don't know. I think we have to bear that in mind through everything we consider doing in the area of limiting. It is most important to keep in mind that we've got nationally chartered institutions that have a certain degree of freedom in certain areas that State-chartered banks might not have, that might create some competitive imbalances we might not want to see happen.

I don't know, John, if the magic number were 10, as an example, whether it would be equally applicable to everybody or not.

ASSEMBLYMAN DOYLE: Let me move to check holds. What is the average, or what is the range for a check hold amongst the institutions of your Association, the hold time on a check that is drawn on a New Jersey bank by a person who is cashing it who has an account with that bank of long and honorable standing?

MR. GRIFFITH: You know, from what I hear from our people, it's the normal day or two. On a bank in New Jersey?

ASSEMBLYMAN DOYLE: Yeah.

MR. GRIFFITH: It's usually a day or two at the most.

ASSEMBLYMAN DOYLE: Aren't there banks that hold those checks longer than two days?

MR. GRIFFITH: There might be if a bank decides it is going to honor the check of a non-customer. If it is somebody they don't know, they may hold it longer.

ASSEMBLYMAN DOYLE: Is there any reason why that ought to be held longer than two days if the experience is that one out of every 5000 checks are bad, and if the bank has those funds available within one to 1.6 days?

MR. GRIFFITH: I think the only good reason, again, is if the bank has any reason to believe that the check shouldn't be honored. It should be able to do that because-- That may be the case now, but if we begin to really loosen things up, as an example, you know, what then might be our statistical experience?

ASSEMBLYMAN DOYLE: If we generically take out new accounts, accounts with past bad checks, that number of one out of every 5000 is only going to be even greater. It seems to me that that is not loosening the floodgates for potential fraud.

With respect to charges, if I understood your testimony right -- and we're hearing it in the insurance industry -- what you are saying is, prior to several years ago you were subsidizing. Banks were not charging what the actual cost of that coupon that was clipped was, or the other services you render.

MR. GRIFFITH: That's right. In other words, the depositor, no matter who he was, at least until we began to find our ways competing with CDs by calling them what we did in the '70s to get around the limitations. For the most part, savings accounts, as an example, were paid by banks at a less-than-market rate, depending, again, on what the market was at that particular time. Again, checking -- there was no interest paid whatsoever on it. You know, we had millions of dollars in checking. Again, obviously, some of that-- It's not gravy entirely because there were costs in maintaining a checking operation. But regardless, that was a good bundle of money that was fairly cheap to institutions. That was a loss to depositors. That is, again, why-- Again, it was specifically designed to create a situation like that because they didn't want banks in price wars. They wanted to be able to allow the banks to have a large block of cheap money so they could turn around and make socially desirable kinds of loans, such as mortgage loans, available at what might be a lower rate.

So, what you had then was, you really had the depositor subsidizing the borrower. The depositor isn't subsidizing anybody any more.

ASSEMBLYMAN DOYLE: Everybody should pay their fair share.

MR. GRIFFITH: People are now paying their fair share, supposedly. I would assume some would say they are not.

ASSEMBLYMAN DOYLE: These changes I find somewhat interesting. I sponsored, along with Senator Weiss, as you well know, the interest cap removal bill.

MR. GRIFFITH: Right, thank goodness.

ASSEMBLYMAN DOYLE: And now we are being told that to some degree that creates competitive-- You've got to do more marketing things, and it has increased the cost. You can't use it both ways. It was a good thing. You can't say now it's costing.

MR. GRIFFITH: Well, no, no.

ASSEMBLYMAN DOYLE: It's somewhat-- I saw my friend Tom Hart out there; I don't think he is going to testify. The S&Ls -- they, for the longest time, wanted check cashing privileges. Now they are citing it as one of their problems.

MR. GRIFFITH: Well, John, that is not what I'm saying.

ASSEMBLYMAN DOYLE: I don't want you to hold--

MR. GRIFFITH: No, no, that is not what I'm saying. Correct me if I am wrong. We were very appreciative that you were able to give us the flexibility to go out and make loans available at a competitive rate. Without that, I don't know what we would have done paying high market rates. The service charges, if you hadn't had that enacted, would be really-- If we think they're high now, the service charges would be phenomenal if you didn't have that legislation. In fact, probably certain services -- deposit services -- would be eliminated.

ASSEMBLYMAN DOYLE: Well, then you're saying the service charges do impart subsidized -- not the administrative side of the bank -- but the borrowing/saving side, if I may--

MR. GRIFFITH: That's true, that's true. So it's not the depositor any more, but it's true that the service charge is our way of trying to compensate for the increased costs of our deposits. We are not getting it entirely. In other words, there was a thought that maybe you would get a trade-off. For paying your depositor more, you would, in turn, take that money and loan it, and, therefore, you would have a wash.

But you can only squeeze your loan demands so far because you are in a competitive loan market. We're competing, as an example, for home appliances, automobile loans, and credit card loans with other competitors who are not banks, at lower rates, and we've got to be competitive with those rates. So, in other words, what I'm saying is, we can't make up for the increased cost of our funds just by increasing the size of our loan portfolio because we can't afford, at given times, to charge such a high rate on loans to do that offset. So we've got to find other ways, again, to offset those increased depositor costs. We can cut back on personnel and cut back on branches. That is another way.

ASSEMBLYMAN DOYLE: But those service charges went up 100% in the last four years nationwide -- 107%.

MR. GRIFFITH: It wouldn't surprise me. You're going from zero, in many cases, to something. I mean, you had very few, very limited service charges before interest rates were deregulated because, again, why service charge the account? It paid for itself. It more than paid for itself because we are paying less than market interest.

But now that we're not paying-- Now that we're paying market rate interest, we've got to find a way to offset that. So, you probably had very, very low if any service charges in the '70s because, again, we got the lower rate on the interest that was deposited with us.

ASSEMBLYMAN DOYLE: Pardon me, are your banks losing customers, do you know? The phrase "demarketing" was used before.

MR. GRIFFITH: I think we had a substantial problem.

ASSEMBLYMAN DOYLE: Intentionally or unintentionally?

MR. GRIFFITH: We had a substantial problem in the late '70s and early '80s, very much so and, to some degree, yes, we are still losing them. We may find more of a problem losing them in the future because we are now-- Again, we are competing in a bigger market now. We are no longer just competing with thrifts and other banks. We are now competing with Sears, as an example.

ASSEMBLYMAN DOYLE: Non-banks, yeah.

MR. GRIFFITH: Yeah, and we are going to be competing with their plastic, their Discover Card, as an example. So, we see ourselves-- We see our costs changing, but we see our competition changing very dramatically as we move forward into the balance of the '80s, as well.

ASSEMBLYMAN DOYLE: I hope the Commissioner's survey will include the demarketing aspect. That is a pejorative term, the loss of customers.

ASSEMBLYMAN KOSCO: Thank you. Anyone else have any questions?

ASSEMBLYWOMAN OGDEN: Yeah, I have one question, Mr. Chairman. Al, in talking about where various units of government have their funds, we heard about Lakewood, and Pete was talking about the Township of Union.

MR. GRIFFITH: Right.

ASSEMBLYWOMAN OGDEN: In terms of the competition you're getting now, these others -- securities, insurance, non-bank banks -- are any of them recipients of government funds, State or county or municipal?

MR. GRIFFITH: Not that I know of yet, Assemblywoman. No. I don't think we're finding competition in that particular area yet. I guess we do compete with the securities industry in terms of securing obligation bonds -- municipal obligation bonds. You know, a bank like First Fidelity, as an example, might be competing head-on with the Pru or a securities firm for the purchase of a municipal obligation, but from the standpoint of deposited funds--

ASSEMBLYWOMAN OGDEN: But not CDs or anything like that?

MR. GRIFFITH: No, not that I know of anyway. I don't recollect it. I might say just as a follow-up to that in a way, because it was an interesting point that was raised before about the municipality perhaps recognizing banks that are willing to do a little bit more for them-- I guess another thing that has to be borne in mind, however -- and I'm speaking now, I guess, as a former mayor -- is the fact that not only did the deposited funds in our municipality -- not only were they there because the municipality was able to generate a certain amount of interest from it, but the deposited funds sometimes, as an example, were an offset for a bank providing accounting services for the municipality. There are a number of services. I know in our municipality, banks provided -- and that was before I became a member of the Bankers Association; I was a high school teacher then, so-- But, there were a number of services that our banks provided for us in the municipality, in the accounting area, etc., investment management, etc., that were provided to us as a service which was worth a certain price, which were put into us in terms of deposited money.

So, the money deposited in a municipality, at least in my experience in my town-- There was more benefit to the municipality than just a deposited interest that came from it.

ASSEMBLYMAN DOYLE: Al, not to belabor the question, but this whole idea of check cashing-- If those checks are as infrequently bounced as statistics seem to show, particularly with government checks-- Assemblyman Singer's testimony, I think, was most obvious, and there was a gentleman, evidently, who drives people to a bank because he has nothing else to do. That committee of yours better look at that one very closely.

MR. GRIFFITH: Yeah, we'd like that. We have not-- I don't think we have done any real study or read any studies on the percentages that have been mentioned before by Mr. Fogarty. We'll check that out.

ASSEMBLYMAN DOYLE: Any reasonable item that would secure those checks as being non-fraudulent checks, I think we could do. But those checks ought to be government checks with a picture I.D., or however else it could be enforced in a better way. They ought to be cashed so they are not driven to check cashing or 30 miles away or anything like that. Something ought to be done.

MR. GRIFFITH: We might also want-- In looking at that, we might want to consider-- I think the key, John, is-- I'm not sure how we could do it yet, but there has to be some way the institution could feel entirely sure that the person presenting the check was the one rightfully entitled to it. How you can structure that--

ASSEMBLYMAN DOYLE: When you figure out anything in this world to make it absolutely sure, tell me.

MR. GRIFFITH: We have begun to think a little bit about it. You know, we talked a little bit about the photo I.D. idea, etc. You know, maybe something like that.

ASSEMBLYMAN DOYLE: I think part of the problem is not the security. It is, in fact and in truth, that a number of institutions have problems with their normal clientele, who come into the bank on the third of the month, and the clientele who are bringing in those government checks. They are different colors, different income groups. It is that clash of people that bothers the institution more in some ways than does the infinitesimal number of bad checks.

MR. GRIFFITH: Well, I won't disagree with that, in that banks that offer food stamps and welfare services are really clobbered at a given point when they are made available to people at one time. I see that the Legislature, in its right judgment, passed a bill, and the Governor signed a bill, which, I believe, will create a kind of -- I'm trying to search for the right word-- The distribution of welfare checks is going to be done on-- They won't all be done at one time.

ASSEMBLYMAN DOYLE: Yeah.

MR. GRIFFITH: Something like that, as an example, might really be a plus, and perhaps something like that here might have some value, not getting clobbered all at once.

ASSEMBLYMAN KOSCO: Okay. Thank you. That completes the list of people who had asked to speak. The only person who has not spoken is Mr. Hernandez, who, I believe, was going to speak on the same thing because he is from Lakewood. I think he was going to speak on the check cashing situation.

I think this has been an outstanding hearing, and I'm pleased at the way the questions were asked and the things that came from them. I think we have probably come to a conclusion that the biggest problem we seem to have is the check cashing situation, whether it be the time that it takes for a check to clear-- And secondly -- not necessarily in this order of priority -- the fact that individual checks -- State checks, government checks, Social Security checks -- are where people are having a problem.

I think another very important point that came out of the hearing was, it doesn't seem to me that there is anybody checking on the advertising of the banks. We really couldn't get an answer on that, and I think that is important because I think people are shopping for dollars today, the same as they shop for a living room set, a kitchen set, or a refrigerator. They're shopping and they're reading the advertisements. I think we have to pay a little bit of attention to that. We found out that we really don't-- I don't know if we have a checks and balance in that, but I think we should be finding out.

Would any of the Committee members like to quickly sum up?

ASSEMBLYMAN DOYLE: Where do we go next, Mr. Chairman?

ASSEMBLYMAN KOSCO: Well, I think what we want to do is get a copy of this together and let's review it. We'll discuss it, and if we think we have need of another hearing, or if we want to sit down and work on legislation with the people--

ASSEMBLYMAN DOYLE: I would like to have all of the facts, but I am somewhat concerned that the bank study -- the Commissioner's study -- won't be available, evidently, until mid-summer. I think the banks might, and the trade associations -- the three major ones, the S&Ls, the Ss, and the banks -- knowing of the questions that were asked, specifically, what is the average hold time necessary, what is the average hold time existing for the various classes of checks, what is the average amount necessary to fund a bounced check, what is the average charge, what are the policies on check cashing privileges for non-account holders, and what would make them more likely to cash government checks for non-account holders-- I think they can give us answers to those questions more quickly than mid-summer and, also, the no-frill idea. Those four major ideas, because I would not like us to wait for the answers until the summer, and then we are talking about it in the fall, and we're coming out with a compromise in December. Then we're--

I know you want to act on it more quickly than that, Mr. Chairman. I hope we can go, maybe, into Executive Session one time in June to try to draw up the parameters of some finite responses to those four points.

ASSEMBLYMAN KOSCO: Okay. That is a good suggestion and I think we will follow it. We'll set it up and we'll discuss it. We have another Committee meeting-- Our regular Committee meeting is when, the eighth?

ASSEMBLYMAN DOYLE: I don't want to interfere with the forward movement of members' bills and the bills considered by this Committee.

ASSEMBLYMAN KOSCO: No, I know that.

ASSEMBLYMAN DOYLE: Maybe on an off day or on a day which you think appropriate.

ASSEMBLYMAN KOSCO: We have a Committee meeting on the eighth. It starts at ten o'clock. What we'll do-- Maybe what we can do is start our Committee meeting at 10:15, and at ten o'clock we can sit down and discuss and come up with a date that we might want to have another meeting -- Executive Meeting -- and how we are going to go after the answers to the questions that arose.

Will we have a copy of this by then? We have all of the testimony here, but I mean officially? (response, if any, indiscernible)

ASSEMBLYMAN DOYLE: That doesn't bother me that much. We were all here; we were here for all of it. We know what went on.

ASSEMBLYMAN KOSCO: Okay. (someone speaks from audience) Yes, sir?

SAM SCOZZARO: May I make a comment? First off, my name is Sam Scozzaro. I am with the New Jersey Federation of Senior Citizens. One of the things that did not come out at this meeting was about direct deposit Social Security checks. I've had a number of complaints -- which I took care of -- with reference to senior citizens who have gone on the third of the month to get their money, and the bank has said, "You can't have your money because it hasn't been posted yet."

Later on, I had another lady who called me up on a Saturday morning, on the sixth. She couldn't get her money because it hadn't been posted yet. I think that ought to be looked into, as well.

Also, another thing talking about the cashing of checks. I am on the Advisory Board of the Public Advocate. I had occasion to go down to the office to have some material Photostated. The clerk in the Consumers Division -- Complaint Division -- took care of me. She discussed the fact that she had just received a thousand dollar check from the IRS. The bank would not cash it for her because there were too many bad checks floating around.

Well, being that they were in the Public Advocate's Division, they took it up with the Banking Department. They got involved, and the end result was that they agreed to cash the check, but she had to hold up. For 14 days she couldn't get her money. I thought this ought to be put into the record, as well.

One of the reasons I didn't testify was, first off, I have been so involved with energy problems. I am the Chairman of the Utility Task Force for the Federation of Senior Citizens. I am also on the Advisory Board of the Board of Public Utilities, and I had to go up to the 50th Anniversary of the Board of Public Utilities. I have been so involved in all of these things that I couldn't get together all the necessary information to make a real, honest to goodness input into this Committee.

I have appeared before -- not this Committee -- but Assemblyman Adubato's Committee before, and I have had input into this. But anyway, I thought that this particular situation ought to be addressed, the direct deposit.

ASSEMBLYMAN KOSCO: Okay, thank you. If you do get a chance to put that down, please send it to us and every member here will be glad to have a copy of it, and we will include it in our record.

MR. SCOZZARO: Well, if you are going to have another meeting, perhaps I will get some stuff together because I do have a background and experience in banking situations, even at the national level. I have been involved even at that, and what they are also doing at the national level. They are coming up with a bill. I guess perhaps you probably know it.

ASSEMBLYMAN KOSCO: I don't want to talk about a particular bill.

MR. SCOZZARO: Very good.

ASSEMBLYMAN KOSCO: But, get that together and get it to us, and we will be glad to review it.

Thank you very much.

(HEARING CONCLUDED)

Appendix

CONSUMERS LEAGUE OF NEW JERSEY
FOUNDED IN 1900

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For AG

BASIC BANKING IS A BASIC RIGHT

Have you ever thought what it's like not to have a bank account? How would you pay your bills if you didn't have a checking account? How would you cash your paychecks? Quite a few of our neighbors don't have checking accounts. The Federal Reserve Board reported that in 1983:

--39% of low income families didn't have checking accounts,
--72% of low income minority families didn't have checking accounts,
--12% of the general popluation didn't have a checking account.

If you don't have a checking account, you'll have to pay $1.00 and up for each money order. If you don't have a bank account, you probably won't be able to cash a check. You'll have to pay a check cashing service. Besides the loss of that charge, you'll become a target for muggers.

A recent survey by New Jersey Public Interest Research Group (NJPIRG) reports that 62 out of 67 banks surveyed will not cash a government check for a person who does not have an account. CLNJ has received a complaint about a savings and loan association in Bayonne which refused to honor its own check! A former (but not current) depositor presented, in person, a cashier's check written on the Pamrapo Savings and Loan Ass'n (and signed by its branch manager), but the institution refused to honor its own check! It demanded a "hold" on its own check.

Low and moderate income consumers are being driven out of the banking system.

Why don't people have bank accounts anymore? One reason is high service charges. Ten years ago, low balance accounts were encouraged. Now banks discourage them by charging "monthly service charges" if your balance falls below a certain amount. Since the median balance in a checking account was only $400 for families earning $10,000 to $20,000 annually (Federal Reserve Board 1983 Survey of Consumer Finances), you can see that a large number of middle class families are being hit with service charges. Congress Watch reports that in just four years (from 1978 to 1982) bank service charges doubled from $4.9 billion to $10.8 billion. We're all paying that bill.

Some consumers lose money by putting it in the bank.

Depositing money in the bank can actually lead to losing money for some consumers. In August 1985 N.Y. State Senator Franz Leichter did a survey showing what would happen if a moderate income consumer kept about $300 in a savings account and $300 in checking at 24 New York City banks, and made a certain number of deposits, withdrawls, and other transactions subject to service charges. From the interest earned, the survey subtracted the service charges. The chart at the top of the next page shows how the depositor did at selected banks. At the best bank, the consumer came out $16.67 ahead; at the worst in the survey, the consumer lost $193.66. These results caused Senator Leichter to comment: "A few years ago, a Citibank Senior Vice-President was quoted as suggesting that lower balance customers should keep their money 'under a mattress.' This cynical advice has sadly come true for many middle-income consumers with typical balances."

SERVICE CHARGE SURVEY BY NY STATE SENATOR FRANZ LEICHTER TESTING 24 NEW YORK CITY BANKS (August 1985)

Bank	Rank	Net Gain or Loss to Depositor per Year (Interest earned minus service charges)
Apple Savings	1	+ $16.67
Crossland	2	+ 10.20
Amalgamated	3	+ 7.67
Anchor	4	- 24.33
Citibank	16	- 84.83
Chase Manhattan	18	- 98.75
Chemical	21	- 119.92
Manufacturers Hanover	22	- 128.18
Bankers Trust	24	- 193.66

(See page one for general description of this low balance survey.)

It would be interesting to see this type of survey done for New Jersey banks.

Service charges discriminate unfairly on the basis of wealth.

Service charges are not imposed on persons wealthy enough to maintain high balances. In essence, the bank is selling the same product (e.g., a checking account) and charging two different prices-- depending on the wealth of the customer. We don't allow wealth discrimination in the sale of bread, and we shouldn't allow it in banking either.

Banks have an obligation to serve the community.

Banks are not ordinary businesses. Bank deposits are insured by the US government to prevent runs on the bank and to preserve consumer assets. Some banks can borrow directly from the Federal Reserve Board. Since the federal and state governments protect the business of banking, banks have obligations to serve their communities. CLNJ asks that New Jersey act now to ensure that banks meet those obligations-- the upcoming regional bank mergers recently legalized present the risk that Ohio banks buying up New Jersey banks may neglect their New Jersey obligations. By acting now, New Jersey can assure that basic services are provided and reasonable fees are charged.

Basic banking accounts are needed.

CLNJ recommends that the Legislature require "no frills" basic banking accounts. Basic banking accounts are characterized by:

- --low initial balances to open the accounts,
- -- no service charges for low balances,
- --reasonable charges for
  - --transactions
  - --stop payment orders,
  - --bounced checks, etc.

CLNJ recommends that banking institutions be required to cash government checks (federal, state, and local) provided the consumer present proper identification. For example, the bank could set up its own ID card system. There is no excuse for failing to cash government checks. Such refusal places senior citizens and the poor in real hardship. CLNJ has heard complaints of people in Jersey City and Lakewood who have to travel long distances and even leave their town to find a bank which would cash their government checks.

CLNJ also recommends that disclosure of all fees and charges for all types of bank accounts be mandatory:

--when the account is opened,
--when a price is changed, and
--should always be available in a prominent place in the bank's lobby.

WHAT'S HOLDING UP YOUR CHECK?

Ten years ago, banks did not hold a deposited check "for ransom" and make the consumer wait 5 to 15 days before he could use the money. Today the concept of "check holds" hurts nearly all consumers. Interest and the use of your funds are often lost, while the bank makes money on your money. $290 million per year is made on this "float," according to a report by the US House of Representatives Banking Committee. If you write your own check against funds which are being "held," your check bounces. Bounced check charges, at an average of $13 each, cost American consumers $125 million per year, according to Consumers Union.

Are check holds justified?

NJPIRG did a study in January 1985 called "Held Up at the Bank: A Study of Check Clearing Delays in New Jersey." This study discovered that:

--59% of banks held local checks for one week or more,
--54% of banks held out of state checks for two weeks or more,
--65% of banks held cashier's checks for three business days or more.

CLNJ has received complaints such as a Jersey City woman who was told by the Commercial Trust Company that it was going to impose a hold period on a certified check! When asked, the bank refused to say how long this period would be. The consumer needed the cash for a major purchase immediately, but her own bank failed her.

These long check hold policies are not justified. The Federal Reserve Board, in 1985 testimony before Congress, reported that on average, banks received payment on checks, including out of state checks, in only 1.6 days. Consumers Union notes that 99% of checks clear without a problem. Of the 1% of checks which bounce, almost all of them are paid the second time around: only 1 in every 5245 bounced checks results in a bank loss according to Consumers Union. These statistics show that check hold periods have no basis other than to make extra money for banks. Pro-consumer timetables enacted in New York, Massachusetts, and California have not led to unusual losses.

Check holds discourage consumers from having bank accounts.

Check hold policies affect all consumers, regardless of how much money they have in the bank. But long check holds have a pernicious effect on moderate and low income consumers: they help drive these customers out of the banking system. Many families live from paycheck to paycheck. If these families had to wait ten days to receive cash from their checks, they wouldn't be able to pay for rent and food in the interim. And if they can't afford to keep $400 in the bank for a whole month, they won't be able to cash their Social Security check the next month--Catch 22! Hence long check holds are a major reason why many NJ citizens don't have bank accounts. Check holds, combined with high minimum balances, service charges for low accounts, and hostility to cashing government checks, are driving people out of the banking system.

The Legislature should shorten check hold periods.

CLNJ recommends that New Jersey follow the example of New York, Massachusetts, and California and enact a reasonable check hold schedule which would:

--allow immediate cashing of government checks,
--give consumers next day availability for local checks,(and certified/cashier),
--require third day availablity for out of state checks.

New York, Massachusetts, and California continue to be financial centers despite state check hold schedules. New Jersey consumers deserve no less.

Consumers overwhelming want reasonable banking practices.

A recent survey by the American Association of Retired Persons (AARP) talking to a sample of consumers aged 25 or over, found that:

--57% of consumers favor the government requiring basic checking accounts at low cost or no cost,
--50% of consumers think that check hold times are unreasonable,
--77% of consumers want to restrict the amount charged by banks for bounced checks.
--49% of consumers feel that choosing financial services is more confusing than it was five years ago,
--75% of consumers favor legal limits on the amount of interest which banks can charge on credit cards.

It's time for the Legislature to listen to consumers for a change.

NEIL J. FOGARTY
President