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I. REQUEST

Bill/Resolution No. Proposed legislation -- An Act... relating to examination fees and
 Title assessments; and providing for an effective date.

Requested by Governor Date Dec. 4, 1981

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Banking & Securities

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES			0			
200 TRAVEL			0			
300 CONTRACTUAL			0			
400 COMMODITIES			0			
500 EQUIPMENT			0			
600 LAND & STRUCTURES			0			
700 GRANTS, CLAIMS, ETC.			0			
TOTAL			0			

FUNDING (Thousands of Dollars)

GENERAL FUND			0			
FEDERAL FUNDS			0			
OTHER (Specify Fund Source)			0			

POSITIONS

FULL TIME			0			
PART TIME			0			
TEMPORARY			0			

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

An increase in program receipts.

Willis F. Kinnear

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 23, 1982

Honorable Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Banking Fees

During your conversation with Mr. Kirkpatrick this date, you indicated a wish for clarification of the responsibility of the Division of Banking and Securities and the numbers of financial institutions involved. First, let me state that we conduct joint examinations of the State banks, trust departments and savings and loan associations with the applicable federal agencies, i.e., FDIC of banks and trust departments and FSLIC of the savings and loan associations. In both instances, we make all efforts to avoid redundancy in our examinations.

The Federal Deposit Insurance Corporation (FDIC) and the Federal Savings and Loan Insurance Corporation (FSLIC) are insuring agencies and, as such, are not concerned with State law. Our responsibilities are, on the other hand, geared to structure of the financial institution and the safety and soundness of the operation. In other words, our joint efforts are complimentary of each other and not a duplication. We would be pleased to provide a copy of those items we examine to determine compliance of State law and those contents which are in the FDIC examination.

We are currently jointly examining nine (9) banks, two (2) trust departments, and one (1) savings and loan association. Our sole examination responsibilities include four (4) small loan companies, eighteen (18) premium finance companies and four (4) bank holding companies. In addition, we have one (1) bank and one (1) savings and loans association in the chartering process and one (1) savings and loan association and two (2) credit unions in the process of converting to State charters.

February 23, 1982

There are other activities that the examiners are assigned that do not fall in the definition of examining banks. Just this past year, as an example, they have worked on the following:

Researched and developed allowable activities of representative offices and loan production offices of banks that do not constitute banking or branch banking.

Process and investigate three branch bank applications.

Process and investigate an application of a bank to purchase and assume a branch bank of another bank.

Review competitive federal chartered institutions allowable activities and promulgate regulations so state-chartered institutions can compete (Wildcard Statute).

Investigate and take action to revoke a Certificate of Incorporation of a savings and loan in organization revocation. Hearing preserved organization.

Investigate procedure to allow a bank holding company to transfer trust authority from the bank to the holding company.

Process and investigate consumer complaints from the public and the consumer protection agencies file against financial institutions.

It appears to us that the question boils down to whether the public should pay the cost or should the user financial institutions pay the cost. As was stated in your meeting, the program receipts resulting from the fees paid account for only approximately 10 percent of the division's budget.

I hope this has covered the points addressed in the meeting. Should you have further questions or if we may be of any assistance, please feel free to call on Mr. Kirkpatrick at any time.

Sincerely,



Edward W. Eboch
Deputy Commissioner

EWE/shA/5

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

January 18, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Thank you for your request for a position statement on SB 647 - an act relating to exam fees.

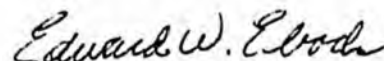
Our position on this bill is based on the following information:

Salary increases during the three-year period were 32.8% (not including merit increases). Per diem costs have increased a corresponding amount, while travel costs (air fare) have increased a disproportionate 84.1%. (Travel and per diem calculated on Juneau to Anchorage and return.) A corresponding increase was also noted in other line items; however, these increases were not included. An increase from \$7,500 to \$10,000 in maximum fees will yield a 33% increase in fees but would not cover our averaged increase in costs of 49.9%. An increase from \$7,500 to \$12,000 or a 60% increase will provide a 10% cushion for future increases.

The Division of Banking, Securities and Corporations has made an effort to reduce the cost of examination. Four examiners are now stationed in Anchorage close to most of the banks. Also, to avoid duplication of expense, joint examinations are conducted with Federal Deposit Insurance Corporation, Federal Savings & Loan Insurance Corporation and the Federal Reserve Board in the case of bank holding companies.

The examination and investigation fees assessed are program receipts. Should this increase not be approved, it will be necessary to request additional general funds and/or reduce services to both the public and private sectors. Current revenue does not meet program receipts appropriation.

Sincerely,



Charles R. Webber
Commissioner

ARGUMENTS IN FAVOR OF INCREASED EXAMINATION FEES/12-1-81 .

1) The division presently examines 10 state-chartered institutions, nine banks and one S&L. Of the nine that have been examined so far this year, eight examinations have exceeded the \$7,500 limit. So, if the legislative intent is that the users cover the cost of examination, rather than their constituents, then the ceiling must be raised.

2) The division always conducts joint examinations with FDIC; there is no duplication. The division rates the banks according to the "CAMEL" system, and as required by AS 06. FDIC does not examine as required by AS 06. There are, however, identical forms, reports, and staffing.

3) FDIC does not actually levy a fee on the banks it examines; rather, this cost is allocated indirectly to insurance premiums. Because the FDIC insurance fund generates a good deal of income, even this indirect cost is less than it truly is. *1/2 of 1% usually*

4) Inflation has resulted in higher costs to the department, thus the dollar amount should be increased.

5) Failure to increase the allowable fees will result in only one of two things - either less and fewer examinations or, supplementals.

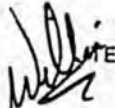
MEMORANDUM

State of Alaska

TO: Jim Kelly, Administrative Assistant to
Senator Pat Rodey
Senate Commerce Committee

DATE: November 18, 1981

FILE NO:



TELEPHONE NO: 465-2521

FROM: Willis F. Kirkpatrick, Director
Division of Banking and Securities
Department of Commerce and Economic
Development

SUBJECT: Increase in Banking
Fees

I have reviewed your comments of November 5, 1981 with a great deal of interest. There appear to be a number of misconceptions presented to you by the bankers. First, we do not consider the examinations to be duplicative. On the contrary, examinations are conducted jointly with FDIC with all examination tasks being assigned to either FDIC or State examiners to avoid exactly what you describe. We do, however, conduct such additional examination procedures as are mandated by the State statutes, i.e., replacement of impaired capital, assessment of stockholders, denying dividends, and taking possession, etc. This cooperation between the State and FDIC reduces the staffing and expense to each agency and avoids duplication. In addition, the FDIC does not directly charge for examinations as this inallocated cost is a product of the insurance fees.

As you may or may not be aware, the FDIC insurance fund derives a good deal of income from investments. This income, I am told, more than offsets their cost of operation. In reality the State chartered banks are paying for only one examination. The State's national banks, on the other hand, not only pay the FDIC insurance fees but an assessment to the Comptroller of the Currency to support their cost of operation. The other insurance agencies, i.e., Federal Savings and Loan Insurance Corporation and the National Credit Union Administration, are operated in a similar way.

Second, as previously stated the examinations are conducted jointly by the State and the applicable federal regulators. We use the same examination forms, issue one consolidated report and utilize combined examiner staffing to generate the Report of Examination. The examination schedules are coordinated with our federal counterparts to eliminate the need for two examinations.

Third, the point that the FDIC examinations "are the ones which really count" is not well taken nor accurate. The State is the primary regulator by statute. It has the responsibility for the chartering and dissolution of its banks and the authority to take possession of a failing bank and to rehabilitate or liquidate it. If it is the argument that only FDIC examination portion of our joint is relevant then it can only be concluded that the Alaska Banking Code provisions noted on the attached compliance examination check list are not relevant and, therefore, should be repealed, in which event all State chartered banks should become national banks.

Fourth, the \$120,800 figure is a product of the budget process and is our best estimate as to anticipated revenue. Unfortunately, if this amount is not realized it is necessary to ask for supplemental funding or to reduce spending in an already tight budget. Either method present a viable alternative. In the past it has always been the legislators intent that the users (banks) cover the cost of the examination rather than their constituents(public).

In conclusion, for your further information, there are now ten (10) state-chartered financial institutions and 23 other licensees. The State's nine (9) banks are rated by the State and FDIC in five (5) specific categories on a scale of one to five (one the highest; five the lowest). These categories are (1) capital (capital adequacy), (2) earnings, (3) management, (4) assets (quality) and (5) liquidity. This is commonly referred to as the "CAMEL" rating. Banks with ratings of one or two are not considered to be "problem banks." Banks, however, of three to five are considered to have varied problems which require additional supervision. Of the State's nine (9) banks only two have a rating of one or two. The remainder have ratings of three to five which as previously stated, require additional regulatory supervision. These ratings are not public knowledge nor are they disclosed to management. The frequency of examinations and other regulatory responses should reveal to the individual banks their status. It's quite possible that some or all of the banks offering input to you have problems which require additional supervision. I would, of course, wish that this information remain confidential for your use only.

I disclose this for only one reason. We evidently have some State banks that are classified as problem banks and, therefore, under close supervision. It is obvious to me that if we were removed as the primary regulator it would be very much to their liking.

WFK/kb 4/7

ALASKA STATE LEGISLATURE
SENATE BANKING COMMITTEE
POUCH V, JUNEAU 99011M E M O R A N D U M

DATE: November 5, 1981

TO: Willis F. Kirkpatrick, Director
Division of Banking and Securities

FROM: Jim Kelly, Administrative Assistant *JK*

RE: Increase in Banking Fees

Thank you for your memorandum of October 9th in which you provided the information I requested. I do have, however, one question about the reference you made in that memo to a "mandate" to supplement SF revenues with program receipts totaling \$120,800. Is that your estimate which you prepared for the FY 82 budget, or where does it come from? Also, what happens if your receipts come in less than expected?

For your information, when Senator Rodey and I discussed your proposed legislation with the Anchorage bankers, we met nearly unanimous opposition. Only Alaska Pacific Bank seemed to understand your position. The chief complaint appears to be that state-chartered institutions are being forced to pay twice for examinations, once to the Division and once to the federal insurers. And the bankers, of course, feel that the examinations provided by the FDIC are the ones which really count.

The question which Senator Rodey has asked me to communicate to you is: Are the examinations duplicative? He wonders if there is a way that your Division and the FDIC could cooperate a bit more to accomplish your goals and yet reduce the costs and inconvenience to the banks?

Would it be possible to provide this office with an explanation of how your Division does, in fact, cooperate with the FDIC, either in terms of generation of information or timeliness of examination schedules? And, how do the two examinations differ?

MEMORANDUM

State of Alaska

TO: Jim Kelley, Administrative Assistant
Office of Senator Patrick Rodey

DATE: October 9, 1981

FILE NO:

TELEPHONE NO: 465-2521

FROM: *Willis*
Willis F. Kirkpatrick, Director
Division of Banking & Securities
Department of Commerce & Economic
Development

SUBJECT: Increase in Banking Fees

The number of bank examinations which exceed the \$7,500 cap had been relatively few in number until the current year. We have been forced to reduce the state examiner participation in an attempt to remain within our limits. We have, however, experienced cost overruns due to additional time required for most recent examinations, plus salary, per diem and travel expense. It was calculated, when this limit was established in 1978, that we could field from Juneau to Anchorage or Fairbanks, three (3) examiners for two weeks or two (2) examiners for three weeks for the \$7,500 cap. Approximately 1/3 of the cost was travel and per diem. Since that time, however, both travel and per diem have increased markedly. It would now equal approximately 45% of the total. We have, however, in the interim, opened a field office in Anchorage which has served to substantially reduce travel and per diem costs but increased personnel costs caused by inflation have offset the savings.

In addition, we are mandated to supplement General Fund revenues with program receipts totaling \$120,200. With examination schedules being staggered and the interval between examinations being extended to 18 months to two years, this amount is almost impossible to attain. For informational purposes, our present examination schedule includes seven (7) commercial banks, two (2) mutual savings banks, one (1) savings and loan association, two (2) trust departments, four (4) small loan companies and twenty-three (23) premium finance companies. In addition, we are processing an application for the charter of a commercial bank, a conversion of a savings and loan association and the charter of a savings and loan association. Various credit union groups have also contacted us regarding conversion to State charter and for new charters. The generation of investigation fees, however, will probably not be realized until well into FY '83 and will have only minimal effect on revenues.

Jim Kelley

-2-

October 9, 1981

The division has examined nine (9) of the ten (10) presently chartered financial institutions. Of the nine (9), eight (8) examinations have exceeded the \$7,500 limit. The present \$7,500 cap has left us a revenue shortfall for these examinations of \$18,900 plus. The attached chart indicates the allowable charge and the actual cost to the department of the last full scope examination performed.

WFK/saC/25

Attachment

FEES FOR MOST RECENT EXAMINATIONS
OF ALASKA'S DEPOSITORY FINANCIAL INSTITUTIONS

	<u>Actual Costs Incurred</u>	<u>Allowable Charges</u>
ALASKA BANK OF COMMERCE	\$ 7,806.38	\$ 7,500.00
ALASKA MUTUAL	7,567.70	7,500.00
ALASKA PACIFIC BANK	12,409.73	7,500.00
ALASKA STATEBANK	12,460.75	7,500.00
FIRST BANK	8,283.87	7,500.00
MT., MCKINLEY MUTUAL BANK	9,833.86	7,500.00
PEININSULA SAVINGS & LOAN	2,682.29	2,682.29
PEOPLES BANK & TRUST	8,283.16	7,500.00
UNITED BANK ALASKA	<u>12,271.85</u>	<u>7,500.00</u>
TOTAL	<u>\$81,599.59</u>	<u>\$62,682.29</u>
 Total Costs	 \$81,599.59	
Total Collections	<u>62,682.29</u>	
Net Losses	<u>\$18,917.30</u>	

ALASKA MUTUAL BANK

P.O. Box 1120 - 5th & F Street - Anchorage, Alaska 99510

December 16, 1980

Mr. Jim Kelly
Administrative Assistant
Alaska State Legislature
Senate Banking Committee
Pouch V
Juneau, Alaska 99811

Dear Jim:

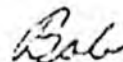
In accordance with our telephone conversation of last week I am forwarding your copy of the Anchorage Real Estate Research Report.

In addition, I am also providing the information omitted from my letter of November 28, 1980. The information requested is as follows:

<u>Calendar Year</u>	<u>Franchise Tax Paid</u>	<u>Examination Fee Paid</u>
1975	\$ 65,673.00	\$1,750.00
1976	\$ 91,565.00	-0-
1977	\$112,249.00	\$2,000.00
1978	\$ 91,194.00	-0-
1979	\$ 58,337.00	\$4,313.55

If you need further information, please advise.

Sincerely,



Robert W. Sullivan
Vice President

RWS/jw
Enclosure



ALASKA MUTUAL BANK

P.O. Box 1120 - 5th e) F Street - Anchorage, Alaska 99510

December 19, 1980

Mr. Jim Kelly
Administrative Assistant
Alaska State Legislature
Senate Banking Committee
Pouch V
Juneau, Alaska 99811

Dear Jim:

Reference is made to your letter of November 18, 1980, in which you solicit comments pertaining to possible changes in the Alaska banking code. Alaska Mutual Bank is pleased to have the opportunity to comment on some of the proposals outlined and will, in addition, offer some additional suggestions.

- (1) AS 06.01.010 - We do not believe an increase in examination fees in excess of \$7500 per examination is justified. Our experience has shown that, on the average, we have 2 state bank examiners present for a period of approximately two weeks. If one assumes 2 manweeks at a rate of approximately \$2250 per manweek salary per examiner, then the fee should approximate \$4500 per examination. If travel and per diem are to be paid by the banks, it is difficult to believe that the current authorized fee of \$7500 per examination is inadequate.
- (2) AS 06.01.020 - We generally concur with the proposed language of this change with the exception of the words "or require". We do not believe the commissioner should have the authority to require financial institutions, through regulation, to provide a service that may be disruptive to the banking system notwithstanding a commissioner's interpretation of "serving the public convenience and advantage". It is our belief that a "requirement" should be dealt with, if appropriate, by statute rather than regulation.
- (3) AS 06.05.011 - No comment.
- (4) AS 06.05.015 - Amending of (6) is unnecessary. This is an intrusion in the affairs of the bank. Each situation determines the need for and frequency of financial statements. Much depends on collateral type and term of loans, and other factors not necessarily relating to an annual financial statement. The added burden to the consumer does not warrant this change.





Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 647:

The Commissioner, (Dept of Commerce and Econ Dev) shall assess every financial institution a fee for expenses incurred for all regular and special examinations or investigations. The major change in the bill concerns an increase in the maximum examination fee which may be charged, reflecting the increased cost for examinations. The existing maximum of \$7,500 was established by statute in 1978, however, since then the cost of an examination has risen 50%, and this bill would address the increase in examination fees by raising the maximum fee level to \$12,000. The bill further provides that all assessments shall be paid to the Department within 30 days after the financial institution receives the notice of assessment.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

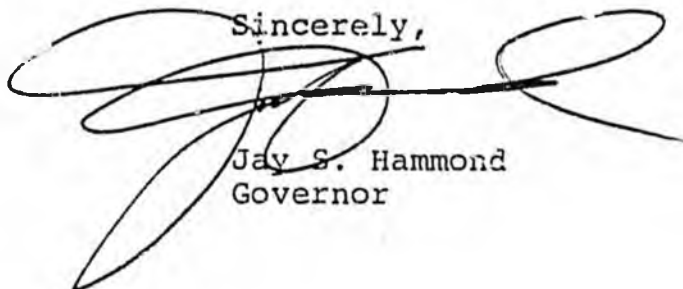
January 11, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which increases the fee that the commissioner of commerce and economic development may assess a financial institution for investigation and examination costs. It raises the existing maximum of \$7,500 to a maximum of \$12,000 per examination. The fee increase is necessary because costs associated with these examinations have risen approximately 50 percent since 1978 when the \$7,500 maximum fee was first established. An additional amendment is included, slightly re-writing the garbled last sentence of AS 06.01.010(b).

Sincerely,



Jay S. Hammond
Governor

1500 1/11/82

Alaska Statutes

Title 6. Banks and Financial Institutions.

Chapter

- 01. Administration (§§ 06.01.010 — 06.01.050)
- 05. Alaska Banking Code (§§ 06.05.005 — 06.05.545)
- 10. Model Foreign Bank Loan Act (§§ 06.10.010 — 06.10.050)
- 15. Mutual Savings Bank Act (§§ 06.15.010 — 06.15.380)
- 20. Alaska Small Loans Act (§§ 06.20.010 — 06.20.920)
- 25. Trust Companies (§§ 06.25.010 — 06.25.350)
- 30. Alaska Savings Association Act (§§ 06.30.005 — 06.30.915)
- 35. Uniform Common Trust Fund Act (§§ 06.35.010 — 06.35.050)
- 40. Premium Financing Act (§§ 06.40.010 — 06.40.190)

Chapter 01. Administration.

- | Section | Section |
|--|------------------------|
| 10. Examination fees and assessments | 40. Examination policy |
| 20. General powers of department | 50. Definitions |
| 30. Orders and injunctions; notice and hearings; regulations | |

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.01.010. Examination fees and assessments. (a) The expenses of the department reasonably incurred in the examination or investigation of all financial institutions or applications to establish financial institutions regulated by the department under this title shall be charged to and paid by each financial institution as provided in (b) of this section.

(b) The commissioner shall assess every financial institution, and every applicant to establish a financial institution, a fee for the actual expenses incurred by the department in connection with any examination or investigation, whether regular or special. The fee shall include the proportionate part of the salaries and cost of employee benefits of the examiners while conducting examinations or investigations and while preparing reports of the same, and transportation costs and per diem of each examiner while away from his duty station. However, the cost to the financial institution in connection with an examination may not exceed \$7,500 per examination. The assessment shall be made by the commissioner as soon as feasible after the

examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than \$100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

Sec. 06.01.020. General powers of department. The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

- (1) serves the public convenience and advantage; and
- (2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

Sec. 06.01.030. Orders and injunctions; notice and hearings; regulations. (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

(1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

involving department application; hold a hearing (c) Hearing AS 44.62. as required (d) The provisions of this section regulation (e) For this title, or an official affirmation evidence. memoranda department SLA 1978

As to former AS

Sec. department examination institution corporate

Sec. context (1) "economic (2) "Development (3) "regulation

Article 1. Power 2. Bank 3. Organ 4. Liquid 5. Prohib 6. Gener