STATEMENT OF

NEW YORK BANKERS ASSOCIATION

BEFORE THE

NEW YORK STATE DIVISION OF BUDGET

NOVEMBER 30, 2007

HAUPPAUGE, NEW YORK

The New York Bankers Association appreciates the opportunity to present its views on provisions that may be included in the 2009 Executive Budget, particularly with regard to potential amendments to the Bank Tax. Our Association represents more than 160 banks and thrifts, with 4,900 branches, providing vital financial services in nearly every community across the State. Our diverse membership employs more than 300,000 New Yorkers.

SUMMARY

In the background materials prepared by the Budget Division for this hearing is a presentation that includes the goals of the Division with regard to taxation. Among these is that "companies pay their fair share." Our Association believes that the State's banking industry is, by any measure, paying more than its fair share of its income in State taxes. The industry pays more than $6 billion in total taxes to the State and its municipalities, with over $1 billion in income taxes alone and an additional $5 billion in payroll, property taxes, sales and use taxes, New York City corporate income taxes, the MTA surcharge, and the New York City commercial rent tax. We therefore strongly urge that the Budget Division, in recommending to Governor Spitzer the 2008-2009 Executive Budget outline, avoid any provisions that would increase the taxation of the State's banking industry. The 2008 Executive Budget contained a number of provisions that were characterized as "loophole closers," which the finally enacted budget agreement appropriately rejected. We urge that these proposals not be included in the 2009 Executive Budget.

THE BANKING INDUSTRY IN NEW YORK

The banking industry is an essential element of the New York economy. According to the Federal Deposit Insurance Corporation, the banks engaged in the retail banking business in the State hold more than $700 billion in deposits in their New York offices out of their $1.8 trillion in world-wide deposits. This total represents more than 12% of all U.S. bank deposits. By assets, New

York-based banks rank even larger in domestic market share. Banking is one of the premier industries in the country, employing people at all levels of education, training and skill with little adverse effect on the environment and with a stabilizing effect on local economies. Many states have enacted packages of incentives designed to attract a greater share of the banking industry; now that pressure is also coming from overseas.

A fair tax code is vital in maintaining the State's competitiveness in attracting and retaining banking industry employment. The provisions of the State's Bank Tax were enacted intentionally and are not by any definition "loopholes." They have created incentives and removed revenue distortions, while contributing to the economic health of New York in a way that few other provisions of law can be said to do. Additionally, current economic turbulence argues against any tax increases.

Our community banking sector is experiencing severe financial pressure as a result of 1) the difficult economic climate in many communities in which banks and thrifts operate; 2) the upheaval in mortgage markets; 3) the compression of interest rates; 4) violent and sometimes negative swings in equity and debt markets; and 5) competition from non-bank providers, including credit unions, which pay no taxes. At the same time, our larger institutions are experiencing many of these pressures while being enticed to move to other states or even to other countries to cut costs and remain competitive. Additional taxes will only increase this financial and competitive stress.

In addition, tax increases are likely to put additional financial stress on banks in areas with less robust local economies. This would seem contrary to the goals of reinvigorating failing local economies laid out this fall by the Empire State Development Corporation (ESDC). At a budget hearing, the ESDC presented a specific budget request that capital funding be directed to a new initiative that would encourage private investment as part of its new strategy to improve the lagging upstate economy. ESDC co-chair Daniel Gundersen has noted: "We need to appreciate how regional economies work." He also noted that the poverty rate for Albany, Buffalo, Rochester and Syracuse was almost 29 percent in 2005 – an increase of more than 8 percentage points since 2000, when nearly 4.5 million people were living in "economically anemic" communities. Tax increases on banks in such areas can only hurt, not help, the areas' economic recovery.

TAX INCENTIVE, NOT LOOPHOLES

We strongly dispute the argument that last year's proposals were intended to address provisions of the Bank Tax that had unintended consequences or served no business purpose. In fact, these provisions were purposefully created by legislation to achieve specific objectives which remain important today. Also, as Governor Mario Cuomo stated in his approval memorandum on Chapter Law 817 of 1987, when both the REIT and bad debt reserve deductions were decoupled from the Federal Tax Reform Act of 1986, these provisions are necessary to "return the Federal tax reform 'windfall' to business taxpayers…."

Like the complexity of our State's economy, our tax laws have been crafted to reflect an industry with several distinct sectors. The industry is comprised of local community banks and thrift institutions, regional multi-state holding companies and the larger national and global banks. The Bank Tax, like many tax provisions, includes incentives and revenue-adjusting formulas to stimulate housing, stabilize local government finance, assist small business, and spur corporate headquarters' building in New York.

The **bad debt deduction** exists to insulate banks from the volatility of the credit markets and, for thrift institutions, to protect their mandate to provide home loans.

The **interest and dividend deductions** were intended to ensure a consistent flow of revenues to the State, preserve the status of the State as a corporate center and provide a viable market for State and local government securities.

The **wage factor discount** was incorporated in the law to stimulate New York employment.

Provisions authorizing **grandfathered 9-A corporations** and providing options for institutions that affiliate with banks to keep the system of taxation to which they were subject before affiliation were designed to allow banking corporations to compete in new geographic and product-line markets.

All of these provisions were established in law in 1985 and thereafter to ensure stable and predictable revenues for the State, as well as maintain New York as the world's financial capital. These incentives, taken together, have achieved their purpose and continue to help keep New York competitive in the financial services area. We know they are working because bank employment has gone up throughout the State. Decisions have been made, and are being made, on the basis of the tax law's consistency and workability.

Last year's Budget proposals would have injured not only the banking industry, but its customers and communities. Enactment of these tax increases would have had an immediate negative impact on jobs and forced a contraction in the resources that banks would have available to extend credit to families and small businesses.

Importantly, even with many of the tax increases proposed in last year's Budget ultimately dropped in the final Budget agreement, the State of New York's receipts from the banking industry as of October 31, seven months into the fiscal year, aggregated 14% more than during the first seven months of 2006-2007, a period that included the third quarter of the banking industry's fiscal year during which many banks' balance sheets experienced unusual levels of stress.

ADVERSE EFFECTS OF BANK TAX AMENDMENTS

Banking employment has been growing significantly in many parts of the State, where bank jobs cause a positive, ripple effect on spending and the support of many other businesses and jobs in the community. These include professional and business services such as accounting and law, retail and wholesale trade, restaurants, health care, insurance and financial services, and real estate and building services. For each bank job lost, an additional related job will also be lost.

Banks and thrifts have been steadily increasing lending to small businesses. In fact, small business lending grew 33%, to almost $16 billion, from 2000 to 2004. This has been vital to our State, particularly in areas that are struggling to diversify and modernize their local economies. This legislation could limit much-needed funds that would otherwise be available for small business lending.

A bank or thrift could also be forced to increase rates on mortgage loans, in order to offset the costs of these tax increases. For example, an increase of 20 basis points over the life of a 30-year, $400,000 loan would result in an additional $19,000 in interest costs.

In addition, removing the tax advantage of investing in State and local government securities will drive banks to seek better performing investments. The market for these securities will shrink substantially. Charitable, civic, cultural, and health organizations throughout the State depend upon the generosity of banks and thrifts to meet their objectives. The redistribution of these funds to Albany in the form of higher taxes will no doubt have a detrimental effect in every city and village where, today, a bank supports a worthwhile cause in the community.

BANKING PAYS ITS FAIR SHARE

We would like to clarify the record on the revenues bank taxes have generated for the State. Since the enactment of the 1985 Act, banking's share of corporate taxes increased from 5% to 13%, or more than $1 billion and *double* that for New York City banks. To repeat, in 1985, banks and thrifts paid 5% of the State's corporate taxes. Today, banks and thrifts pay almost three times that percentage. By contrast, banks employed in 2006 approximately 4% of private, non-farm employees in New York State and produced 5.7% of the State's domestic product. Thus, it is clear that the banking industry's current tax burden is more than appropriate. Consider the other taxes banks and thrifts pay, such as payroll, property taxes, sales and use taxes, New York City corporate income taxes, the MTA surcharge, and the New York City commercial rent tax – the total of these payments exceeds $5 billion annually. And these numbers do not include the tens of millions of dollars in charitable and civic contributions that banks make every year in communities across New York State.

Uncertainty is not good for banking and our customers. The markets demand performance and predictability. Last year's budget proposals inflicted uncertainty on to the balance sheet of banking, one of our State's most productive engines for growth and economic development.

New York's bankers would support -- and would look forward to participating in -- a comprehensive look at the bank tax law based on established principles, similar to the 1985 effort. They support any effort that stimulates economic and employment growth, predictability and the strengthening of New York State as a financial center. In this regard, we applaud Governor Spitzer's establishment of the Task Force on Financial Services Regulation which recognizes the key role played by the industry in New York State.

The New York Bankers Association therefore respectfully requests that the Budget Division, in assembling recommendations for the 2008-2009 Executive Budget, avoid any proposals that would have the effect of increasing the taxation of the banking industry in New York State.