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## MEMORANDUM IN OPPOSITION

March 12, 2010

**S1782 Parker (On Senate Local Governments Committee Agenda)  
A4370A Heastie (Assembly Banks Committee)**

*AN ACT to amend the general municipal law and the banking law, in relation to allowing credit unions, savings banks, savings and loan associations and federal savings associations to accept and secure deposits from municipal corporations*

This memorandum in *opposition* is written on behalf of our client, the New York Bankers Association. The Association is comprised of the community, regional and money center commercial banks and thrift institutions doing business in New York State. In aggregate, members of the Association employ approximately 250,000 New Yorkers and hold more than \$9 trillion in assets.

The New York Bankers Association strongly supports providing to savings banks and savings and loan associations the authority to accept public deposits. However, because this legislation would also grant such authority to credit unions, which pay no federal, State or local income taxes, nor any sales taxes, **the Association strongly opposes this legislation.** The bill would, among other provisions, authorize local governments to make deposits in State-chartered and federal savings institutions and credit unions. Credit unions, by contrast, pay no federal, State or local income taxes, no sales taxes, no mortgage recording taxes and have just sought and received an exemption from the MTA payroll tax, which even schools and other non-profits must pay. Every deposit dollar taken from a bank or thrift and provided to a credit union extinguishes the loans and investments made with the deposit, eliminating taxes on those assets and further adding to New York State's deficit.

Historically, credit unions have provided few, if any, services to local governments in New York State. In addition, they pay no New York State or local government income tax, are exempt from the provisions of the State's sales and use tax law, and pay no mortgage recording or MTA payroll taxes. Thus, they contribute little, if at all, to the funds that New York State sends back to local governments each year to fund education, public safety, health care and property tax relief programs. Recognizing the inequity of placing local tax deposits in institutions that pay no State income or sales taxes, New York State has never authorized local governments to establish deposit accounts in credit unions.

This limitation is further justified by the fact that credit union membership is required to be comprised of individuals who share a common bond of employment, association or geography. Because of these membership limitations, most credit unions may not provide services to local governments – services such as check clearing, financial management advice, cash management and others that are routinely supplied by local community banks. Taking local government deposits out of local banks will make it more difficult for these institutions to continue to provide these services. Moreover, community banks make use of their deposits to fund small business, housing, consumer and many other types of local loans and investments. Credit unions historically have been small participants in some of these markets,

such as the mortgage market, or are restricted by law in the amount of these loans they can make, such as small business loans.

In addition, the credit union tax exemption provides credit unions with a dramatic competitive advantage over tax-paying commercial banks and thrift institutions. Banks and thrifts paid the State of New York last fiscal year more than \$1 billion in State income taxes alone. Credit unions do not pay income taxes. In addition, the Cities of New York and Yonkers receive hundreds of millions more in income tax revenue from banks and thrifts. They receive no revenues from credit unions. Similarly, the Metropolitan Transportation Authority receives over \$100 million more a year in income tax payments from banks and thrifts. It receives no taxes from credit unions. These payments of course do not include the Federal income taxes paid by banks and thrifts, which in the past five years have aggregated more than \$40 billion. Banks and thrifts as a result are faced with an extraordinary competitive burden not shared by their credit union counterparts.

In addition, now would be the worst possible time to take local government deposits out of tax-paying banks and place them in non-tax-paying credit unions. For every dollar removed from a bank and placed in a credit union, a dollar in earning assets must be extinguished. The earnings on bank assets are taxed by the State of New York, while no earnings on credit union assets could be taxed. As a result, the State would lose potentially millions of dollars in tax revenue by allowing credit unions to take local government deposits away from the banking industry.

Only 21 states have authorized credit unions to compete for public deposits, with no new authorizations in at least the past five years. Although we cannot comment on the financial strength of any depository institution, it is clear that the credit union deposit insurance fund has suffered losses far more significant than has the FDIC.

For these reasons, the New York Bankers Association **opposes** this legislation and urges that it be **held**.

**Respectfully Submitted,**

**WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP**