

INVESTING IN OUR FUTURE: A COMPARISON OF
STRATEGIES

by

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This thesis explores public banking in the United States as an option to strengthen communities, implement investment strategies based on community needs and values, and increase community resilience from unexpected events. It begins with an overview of the various forms banking takes in the United States, their impacts and interrelationships, and a closer look at the single existing example of a public bank in America, the Bank of North Dakota. Following the overview, I will present some of the reasons the private banking industry is failing to meet the public need. Then, I will discuss greater nuances of the Bank of North Dakota and its state impact. From that foundation, I will present two statewide efforts to create public banking legislation, one in Oregon and one in California, and explore some of the difficulties involved with designing the legislation, particularly in light of using the Bank of North Dakota as a public banking model. The third reader of this thesis, PhD Candidate Alberto Lioy, said to me “There is nothing more American than preserving local communities.” Public banking options have significant potential for helping preserve and strengthen those communities.

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Links to community banking:

1. <https://blackoutcoalition.org/black-u-s-banks/> A map of FDIC approved black-owned banks and credit unions in the United States.
2. <https://mazaskatalks.org/> The website of an political movement to divest in banks that finance the fossil fuel industry.
3. <https://newsmaven.io/indiancountrytoday/archive/divesting-in-dapl-in-favor-of-american-indian-owned-banks-0-Q09Xhp2EuH-OLBCwdU8g/> A list of and information regarding eighteen Native American-owned banks.
4. <https://co-opcreditunions.org/locator/> Co-op Credit Union Locator
5. <http://www.afd-pdx.org/about-public-banking.html> Information regarding public banking proposals

Bank of North Dakota's Loan Programs:

1. <http://leg.wa.gov/JointCommittees/Archive/IFTF/Documents/2011Aug22/BND-FAQ.pdf> A general overview of the functioning of the Bank of North Dakota, including a list of loan programs offered by the Bank of North Dakota

Information About North Dakota's Oil Industry:

1. <https://youtu.be/jYusNNldesc> "Last Week Tonight with John Oliver: North Dakota"
2. <https://youtu.be/8JMa9kSicew> "The other side of the oil boom in North Dakota" published by CGTN America
3. <https://youtu.be/djHs7g3xg0k> "'Men here are 100% worse...They're animals.' Life in a North Dakota oil & gas boomtown" published by BBC News
4. <https://youtu.be/A0YUdhIvenA> "Oil, Corruption and Death on the Reservation" a Times Documentary published by The New York Times
5. <https://youtu.be/caydh8bmqxM> "The Natives: This is Our America (2017)" published by BBC

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Introduction

Capitalism relies on investment. To begin a business, most entrepreneurs need to take out a loan. To purchase a house, most community members need to take out a loan. To afford a college degree in America, most students need to take out a loan. Almost every investment, unless you have inherited wealth or have somehow generated wealth without any investment, requires a loan. It takes money to acquire capital. Modern capitalism functions because of investments. With each loan there is a charge attached to the loan, the interest, to make profit for the lender. Banks and credit unions function by lending money stored in their institution. So, my deposit in an investment institution is not held in a vault for me, but instead is used to make more loans by the investment. Merely by having money in an investment institution, it generates more capital for the investment institution because they can lend deposited money out to generate profit.

Investment banking is central to the functioning of capitalist society. Banks hold power in terms of what they choose to invest in. Banking investment practices shape what infrastructure is created and what businesses are given a chance to begin through initial investment. The ethicality of what big banks have chosen to invest in has been critically addressed by movements such as Occupy Wall Street and the protests against the Dakota Access Pipeline, referred to as DAPL (the construction of which is made possible by huge investment from banks). In addition to being critical of what big banks invest in, people are beginning to also be critical of who owns and controls investment power. Movements such as the #BankBlack movement and public banking initiatives in cities and states across the United States demonstrate that people are rethinking which investment institutions they want to hold their money in and receive loans from,

particularly regarding who owns the investment institution and what the money the investment institution holds is used to fund.

Many proposals for public banking have arisen as an option for ethical banking, where investment decisions align with community health and job creation. Public banking proposals such as in California and Portland, Oregon have stated that public banks could help fund environmentally-conscious business and practices, because eco-friendliness is a stated value in these proposals. However, the model of public banking used to point to the potential benefits of public banking in both proposals, the state Bank of North Dakota (BND), is a bank who invests heavily in oil and coal industry, including DAPL. According to those who protest the oil industry, the BND is not an ethical bank.

However, to those involved in this booming industry in North Dakota, the state bank's investment in infrastructure to support oil and coal industry is welcome (and the Industrial Commission's easy rules for oil companies and their waste is welcome by those in the oil industry as well). What is interesting about modern public banking proposals is that many both use the Bank of North Dakota as a model of the potential success of public banking, while also looking to public banking as a way to fund environmentally-conscious industry. In theory, public banks can be designed in many different ways to suit the values represented by a region's relevant political bodies. To understand the nuances of public banking proposals modeled after the Bank of North Dakota, it is crucial to understand what Bank of North Dakota is, and what it is not.

The better this model is understood, the more wisely it can be used in modern public banking proposals, particularly those that look to public banking to address ways of funding industry and innovation that will combat the harms of climate change that loom over us.

A Brief Overview of Different Forms of Banking: For Profit Banking, Credit Unions, Union-Owned Banking, and Public Banking

There are multiple forms of private banking institutions. According to a 2012 community banking study released by the Federal Deposit Insurance Corporation (FDIC), community banks are considered local banks that receive most of their core deposits locally and make many of their loans to local businesses. Community banks serve specific geographical locations on a scale small enough to be considered “local” and a “community.” Obtaining a business loan from a community bank is a non-standardized process. The study highlights the importance of this method of lending, writing,

“Small businesses, particularly small start-up companies, may be unable to satisfy the requirements of the more structured approach to underwriting that larger banks use. The relationship lending approach used by community banks is often the only avenue small businesses have to obtain loans and access other financial services.” (FDIC, 2012, p.1-1).

The FDIC community bank study (2012) identifies 7,658 FDIC-insured community banks operating within 6,914 separate banking organizations in the US (or 94 percent of all banking organizations) as of year-end 2010. The study’s choice to identify community banking based on the size of the region the bank serves rather than the size of assets is significant because focusing on the region served instead of the financial power of the bank increased the number of community banks in the study by 330 larger banking organizations that might have been excluded if asset size were the

only criterion used. This demonstrates that some community banks have been able to utilize relationship lending with great success.

In addition to taking into account the region the bank serves, the FDIC's 2012 definition of community banks excludes

“any banking organization where more than 50 percent of total assets are held in certain specialty banking charters, including: credit card specialists, consumer nonbank banks, industrial loan companies, trust companies, bankers' banks, and banks holding 10 percent or more of total assets in foreign offices” (p. 1-2).

Community banks are also distinguished from non-community banks in that community banks tend to not have public shares and are usually not traded on major stock exchanges. Because community banks have weaker ties to capital markets, they are not controlled by shareholder pressure in the way that large banks are. Instead, community banks cater to their geographical community.

Community banks are distinguished from credit unions in that credit unions are federally mandated to focus their lending to people of lesser financial means. Congress limited credit union business lending to 12.25 percent of the credit union's assets. Credit unions do not pay federal income taxes. Credit unions were established by Congress in 1934 to be exempt from taxes in return for providing “small loans to people of modest means” (ABA, 2019, p. 59). At that time, membership was limited to those with a common bond such as working for a specific company or belonging to a specific union. Credit unions are nonprofit as they are member-owned institutions, and still exempt from taxation. However, this status is beginning to be contested. In November 2005, congressional hearings were held to examine the credit union tax-exemption and

its justifications in the face of changes to the credit union industry (U.S. House of Representatives, 2005). Technically, though credit unions are nonprofit and member-owned, credit unions are not defined as public financial institutions for the purpose of this thesis in that they are not directly overseen and managed by public government.

There are two types of public banking in the United States today: our Federal Reserve System and state banking. There could theoretically be many different styles of state banking, however there is one example of state banking in the United States today and that is in the state of North Dakota.

One of the ways the Federal Reserve system operates is through the Federal Deposit Insurance Corporation. The FDIC is an independent agency in the US federal government and it plays a pivotal role in the US economy. The FDIC is funded by premiums that banks and thrift institutions pay for deposit insurance coverage and from earnings on investments in U.S. Treasury securities. The FDIC insures deposits only. It does not ensure securities, mutual funds or similar types of investments that banks and thrift institutions may offer. (FDIC, 2017)

“Arms” of the Federal Reserve system are the twelve Federal Reserve Banks which are overseen by the Federal Reserve Board located in Washington D.C. Among the responsibilities of the Federal Reserve Board is to lead committees that study current issues, such as consumer banking laws and electronic commerce (Federal Reserve Education.org). The Board also exercises broad supervisory control over the financial services industry, administers certain consumer protection regulations, and oversees the nation's payments system (Federal Reserve Education.org). Federal Reserve Bank financial accounts are audited annually by a public accounting firm, and

these accounts are also subject to audit by the General Accounting Office (Federal Reserve Education.org).

Independent of the Federal Reserve system is the state bank in North Dakota, which was established in 1919 (State of North Dakota). The BND is not a consumer bank. It secures deposits of public funds and is not insured by the FDIC. The BND acts as a savings account, in a sense, for North Dakota, and the bank is itself independent from the federal banking system. All state funds are held in and operate through the BND, and North Dakota Century Code 6-09-10 declares that “all BND deposits are guaranteed by the full faith and credit of the State of North Dakota” (State of North Dakota). The banks the BND partners with to deliver its investment services, however, are FDIC-insured. The BND has a variety of loan programs it offers, and it delivers them through partnering banks.

The Bank of North Dakota functions almost entirely as a banker’s bank. The Bank of North Dakota is run by North Dakota’s Industrial Commission which includes the state Governor, Attorney General, and the Agriculture Commissioner (formerly the Agriculture and Labor Commissioner) of North Dakota (North Dakota Century Code). These are all elected positions. The BND’s profits go to expansion of its capital base to create a greater capacity for loaning and emergency funds, and the rest of the profit goes to the state government’s general funds.

Like the Federal Reserve Banks, the BND is regularly audited. The BND publishes an annual report that also includes some decision-making insight, accessible to the public (see <https://bnd.nd.gov/annual-report/>).

In Milton Friedman's highly influential essay "The Social Responsibility of Business to Increase Its Profits" published in 1970, Friedman writes,

"In a free enterprise, private-property system, a corporate executive is an employee of the owners of the business. He has direct responsibility to his employers. That responsibility is to conduct the business in accordance with their desires, which generally will be to make as much money as possible" (paragraph 4).

In the case of public banking, all profits go back into the public financial institution itself or into public funds. In the case of private banking, profits either go to the business-owner or to the shareholders. Technically, shareholder-owned business is "publicly-owned" but for the purpose of this essay I will define all business not controlled directly by governmental institutions as "private."

Issues Raised by Activists about Private Banks in the United States

Today

To understand the protests that have occurred around the country against “Wall Street banks”, a term used to refer to banks large enough to appear on the Dow Jones Industrial Average index, one must understand the series of events that occurred in 2008 that highlighted the “too big to fail” notion of large investment institutions. Mass mortgage approval and a myth of a continuously increasing value of housing investment led to a bubble that burst as people began to fail on repaying their debts. Banks packaged and traded bundles of loans on an international market. These bundles of loans, subprime mortgage bonds (bundled mortgage loans sold as bonds), collapsed in value as defaults on risky loans increased dramatically. Subprime mortgage-backed bonds lost up to 80% of their value in the market and the impact was tremendous (Lenzner, 2012). Public deposits had been gambled and Wall Street banks had taken the profits but could not absorb the losses when the bundled securities began to collapse in value. Wall Street banks and bankers practiced short-term profit seeking, minimal oversight, and blatant lying about bank securities, losses, and liabilities. There was only one prosecution of a Wall Street executive following the financial crisis of 2008.

New par here. Jesse Eisinger highlights how the deceitful practices were throughout Wall Street in their 2014 New York Times article “Why Only One Top Banker Went to Jail for the Financial Crisis,” writing:

“During the worst of the financial crisis, according to prosecutors, [Kareem] Serageldin had approved the concealment of hundreds of millions in losses in Credit Suisse’s mortgage-backed securities

portfolio. But on that November morning, the judge seemed almost torn. Serageldin lied about the value of his bank's securities — that was a crime, of course — but other bankers behaved far worse. Serageldin's former employer, for one, had revised its past financial statements to account for \$2.7 billion that should have been reported. Lehman Brothers, AIG, Citigroup, Countrywide and many others had also admitted that they were in much worse shape than they initially allowed. Merrill Lynch, in particular, announced a loss of nearly \$8 billion three weeks after claiming it was \$4.5 billion. Serageldin's conduct was, in the judge's words, 'a small piece of an overall evil climate within the bank and with many other banks.' (Paragraph 2).

The unethical practices of Wall Street encouraged the Occupy Wall Street Movement, where protestors criticized the big banking practices. The fact that Wall Street bankers had caused a huge financial crisis and received a bailout without significant change to the industry left many protestors angry with Wall Street's lack of accountability for their destruction to public finances. Phillip Swagel from the Economic Policy Group *Pew* (2010) summarized the impact of the 2008 financial crisis, writing,

“In sum, the direct budget costs from efforts to stabilize the financial system following the events of mid September 2008 are meaningful— with net costs of \$73 billion and hundreds of billions of public dollars deployed or otherwise put at risk of loss. These figures, however, are only a modest part of the cost of the financial crisis. The larger impacts are those that affected the private sector as a result of the significant decline in economic activity that followed the crisis” (p.8).

The idea that banks are institutions that should serve the public instead of rewarding the harmful behavior of Wall Street banks was a centerpiece of the issues that Occupy Wall Street wanted lawmakers to address. There was much anger about taxpayer dollars being used to bail out big banks. This anger was intensified as it was recognized that the banks received bailouts with little structural change to avoid the risky financial practices that led to the 2008 financial crisis.

The features of big banking that contributed to the financial crises were attempted to be addressed in the Dodd-Frank Act (2010). The act is summarized as an act

“To promote the financial stability of the United States by improving accountability and transparency in the financial system, to end too big to fail, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.”

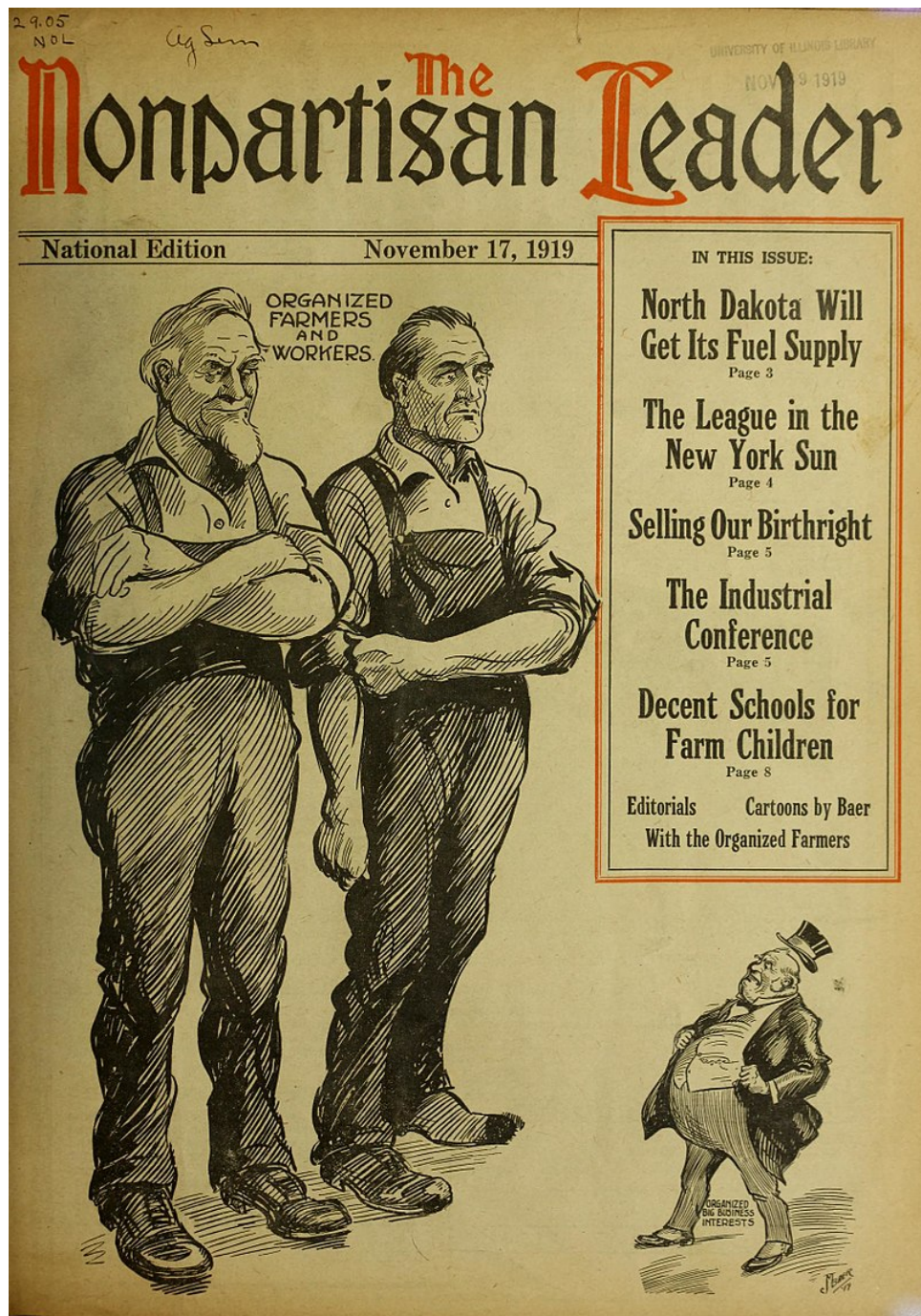
This was done through provisions that required banks to have more stored capital, and stricter mortgage requirements, as well as other requirements.

However, it is clear that this act did not eliminate the opportunity for big banks to continue the risky practice of lending to people who were unlikely to be able to pay back loans. An article was published on May 13th of 2019 in the *Wall Street Journal* that describes how Fannie Mae and Freddie Mac are creating bonds to sell out of loans that are likely to be defaulted on (a key cause to the 2008 crisis) (Eisen, 2019). The article quotes an *Inside Mortgage Finance* study which demonstrates that “Almost 30% of loans that mortgage giants Fannie Mae and Freddie Mac packaged into bonds last year went to home buyers whose total debt payments amounted to more than 43% of their incomes.” (Eisen, 2019, paragraph 2).

Other activist groups upset with banking practices are the Mazaska Talks group and the #BankBlack movement. Mazaska Talks (also known as Money Talks) is an organization that is pushing for public divestment from banks that finance fossil fuels. Mazaska Talks has been effective in advocating for divestment from banks such as Wells Fargo that participated in funding the Keystone XL pipeline. On Mazaska Talks’ website, cities listed as divesting from banks that fund the Keystone XL pipeline include Seattle,

San Francisco, and Oakland. It is interesting to note that all three of those cities are also listed as considering public banking. Oakland and Seattle have both established funds to be used to study feasibility of public banks. There is only one model of public banking in the United States today, and it has been a centerpiece in considering how public banks can operate and what they can potentially provide that private banks do not.

Public Banks in the United States Today



The Bank of North Dakota (BND) was originally created in a movement mobilized in 1915 by a political group called the Nonpartisan League (State of North Dakota). The group was comprised of farmers who wanted affordable agricultural

loans, with a banking system whose profit would stay in the state. Agricultural infrastructure such as mill elevators were needed by the farmers, but use of these was expensive and the timing they could be used was controlled. There had been a long history of farmer dissatisfaction leading up to the creation of the BND, which is significant because leading up to the creation of the BND, 83 percent of North Dakota's population were farmers (Saloutos, 1946, p.50). The Nonpartisan League was successful at politically organizing farmers, and, after winning both houses of legislature in 1918, they passed a bill that created the BND (State of North Dakota) in a push to bring farmers more control of farming infrastructure.

The BND is a state-owned and state-run bank. It was initially designed to support agriculturalists and still serves that function today, however business interests have expanded in North Dakota to include other industries and the BND has expanded to support their growth as well. Focusing on public benefit rather than maximization of profit for shareholders has proven to be a successful business model for BND. Though it may seem on appearance that offering low interest rates would be a risky and unsuccessful banking model, the BND has a higher return-of-asset than banks on average in the United States, with BND's return-on-assets at 1.54 percent in 2014 compared to an average return-of-assets of 1.01 percent for all banks nationwide. (Institute for Local Self Reliance, 2015). In their 2018 Annual Report, the Bank of North Dakota recorded \$159 million in net earnings. Total assets remained stable at \$7 billion. BND ended the year with capital of \$861 million, an increase of \$37 million. The 2018 return on investment was 18 percent. 2018 was the bank's 15th consecutive year of record profits (Bank of North Dakota).

While tens of billions of dollars were used from the federal budget to revive banks that crashed in 2008 due to shady dealings, the Bank of North Dakota (BND) made \$57 million in profit, with \$30 million of the profit going directly into the North Dakota state's general fund (Mitchell, 2015). The BND has been steadily increasing its profits since 1995, including growth in and after 2008.

	BND's Profit	BND's Contribution to the State's General Fund
1995	\$22 million	\$19 million
1996	\$23 million	\$19 million
1997	\$26 million	\$13 million
1998	\$28 million	\$30 million
1999	\$30 million	\$15 million
2000	\$33 million	\$25 million
2001	\$33 million	\$25 million
2002	\$32 million	\$30 million
2003	\$32 million	\$30 million
2004	\$34 million	\$30 million
2005	\$36 million	\$30 million
2006	\$43 million	\$30 million
2007	\$51 million	\$30 million
2008	\$57 million	\$30 million
2009	\$58 million	\$30 million
2010	\$62 million	-
2011	\$70 million	-
2012	\$82 million	-
2013	\$94 million	-
2014	\$111 million	-
TOTAL	\$957 million	\$385 million

BND's Profit and Contribution to the State's General Fund from 1995-2014

(Institute for Local Self Reliance, 2015)

What is it about the construction and function of the BND that allowed it to succeed and bring money into the political sphere for social services while banks

around the world collapsed in 2008 draining tens of billions of taxpayer dollars? This question has prompted policymakers from around the world and in the US to look at the Bank of North Dakota as a potential model. In order to understand the Bank of North Dakota's success and the health of the banking industry in North Dakota, one must understand what distinguishes the BND from other banks. For one, in modern times (though it has in its past served a consumer function to greater degrees), BND is not a consumer bank, aside from student loans. It secures deposits of public funds and is not insured by the FDIC. The BND acts as a savings account, in a sense, for North Dakota but is independent from the federal banking system. The primary deposits at the BND are from government agencies. All state funds are held in, and operate through, the BND. The BND's partner banks, who deliver its investment programs, however, are FDIC insured.

Eric Hardmeyer has been the president of the BND since 2001 and is still the current president. In 2010, in an interview conducted by David Fettig, the Vice President of Public Affairs of the *fedgazette*—the Federal Reserve Bank of Minneapolis—Mr. Hardmeyer describes some key features of the BND, including how the BND relates to other banks in the state. It is significant to understand how the BND operates as a banker's bank to understand the impact and outcomes this model of public banking has had in North Dakota.

To the question “How does the Bank of North Dakota ensure that it doesn't squeeze out profit opportunities for private lenders?”, Hardmeyer responds:

“We have a very solid relationship with both of the banking associations in North Dakota—the North Dakota Bankers Association and the Independent Community Banks of North Dakota. We serve on their

boards in different capacities, and I think you would find from their executives that the relationship between the Bank of North Dakota and the community banks and system banks here is solid. We know our role and play it to the best of our abilities.

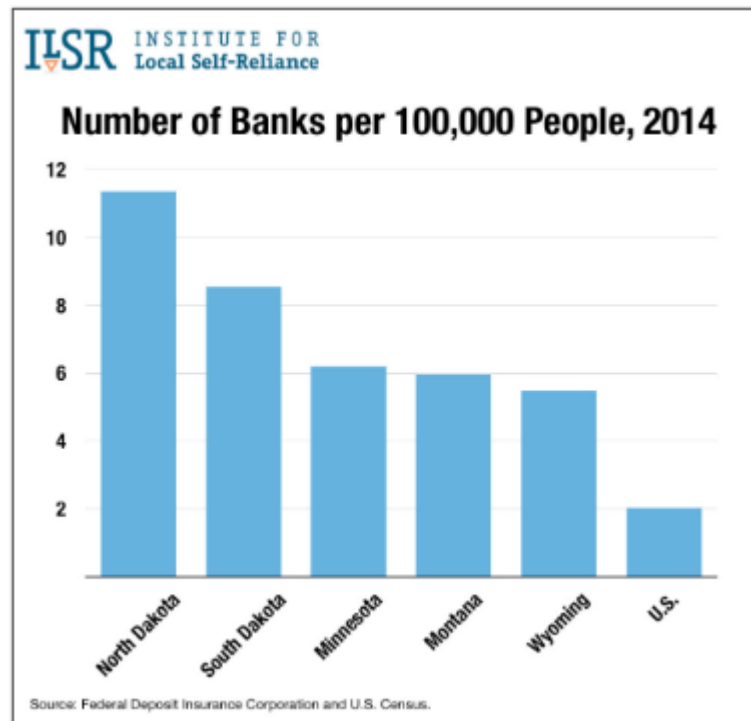
One thing that people need to understand about the bank is that in addition to the mission-critical things that we do, we're also a banker's bank. So, to access our programs, you would have to work through a local originating bank. There is very little opportunity [for a consumer] to come directly to the Bank of North Dakota for any loan activity. The area where we did compete is student loans. However, beginning July 1, 2010, the bank-delivered student loan program known as the FFELP [Federal Family Education Loan Program] will be eliminated and run by the federal government. And even in that area, we had formed alliances with banks across the state to work with them.

North Dakota banks understand that we really are not set up to compete with them and that our programs are delivered through them. We also provide great value to banks in terms of providing liquidity when they have needs; or, if they have excess liquidity, we are a market for fed funds. We do a lot of typical things that you would get from a correspondent bank”.

The BND is not designed for consumer banking, and it is not meant to be an alternative to existing consumer banks. Rather, it is geared towards primary sector loaning and tertiary sector loaning, not by directly making loans with the consumer. Instead, the bank offers programs that are delivered through correspondent banks, meaning banks that provide services on behalf of another financial institution. The BND functions primarily as a “banker’s bank.” To benefit the public, the BND operates through local banks. This has not always been the case for BND, as in the 1950s the BND was making home mortgages at a time when community banks were not offering that service in that region (State of North Dakota).

When Governor William Guy took office in 1961, the function of the BND shifted from a consumer bank to becoming a banker’s bank, thus making BND a facilitator of other banks’ success rather than a competitor (State of North

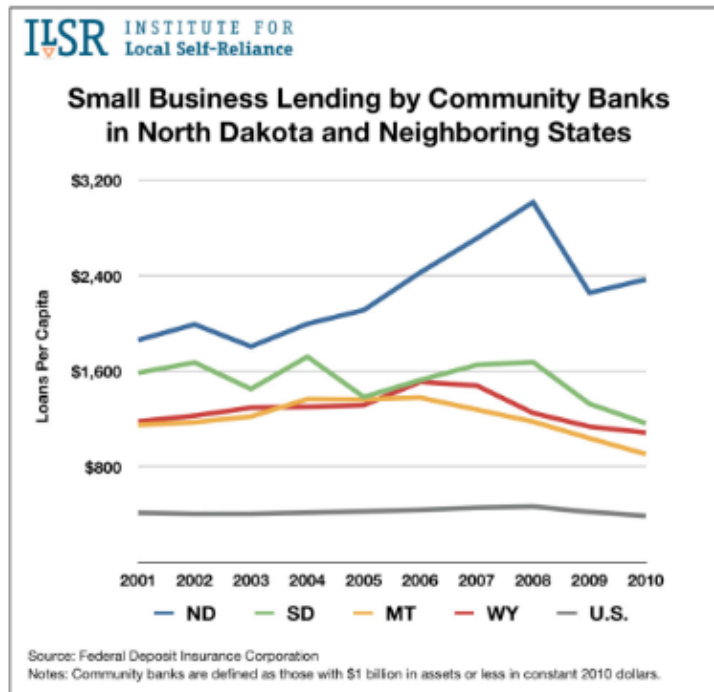
Dakota). Currently, one of the functions of BND is to purchase mortgage loans from local banks to free up the bank's books to make more loans. North Dakota has more banks per capita than its neighboring states or the United States' average.



Number of Banks per 100,000 People in 2014

(Institute for Local Self Reliance, 2015)

The presence of a state bank has encouraged the local banking economy to thrive because BND's activities are not only non-competitive with other financial institutions, they actively partner with local financial institutions. Small banks can succeed by delivering programs funded by the Bank of North Dakota. This partnership likely contributes to the fact that there is more small business lending by community banks in North Dakota than in neighboring states.



Small Business Lending by Community Banks in North Dakota and Neighboring States
(Institute for Local Self Reliance, 2015)

The BND has many programs that actively reward local businesses who create jobs. Through programs such as the Partnership in Assisting Community Expansion Fund (also known as the PACE Fund), the BND uses lower interest rates depending on the community benefit the business prospect seeking a loan provides. If being granted the loan would fund the creation of a business that creates jobs, the interest rate may come down by 1-5 percent. The purpose of the PACE Fund, according to the BND is to help “communities expand their economic base by assisting Primary Sector businesses that make an investment or create jobs in their community” (State of North Dakota/ PACE Program). The BND also has loan programs for high-asset local business.

In David Fettig’s interview of Eric Hardmeyer in the fedgazette (2010), Hardmeyer describes some specific examples of the ways BND’s advisory board communicates with community officials to determine how to appropriate funds.

“Hardmeyer: We’ve recently met with officials from the Williston area where the housing problems seem to be the most acute. They’re struggling to keep ahead of their housing needs, and they’re really looking at the long-term implications for their community—what kind of housing stock they need and keeping in mind the history of previous boom-and-bust cycles. The local city officials and community bankers have gone at this with a very deliberate approach. Some in the community might argue too conservatively, but I wouldn’t.

We’ve worked with them to figure out ways in which the city can encourage development of single-family residential infrastructure. They want to work with the development community, whether it’s in-state developers or others from outside North Dakota, to put a package together that would [encourage] them to come and start building some housing stock. We’ve been working with the city of Williston to reduce their exposure to infrastructure needs—street, sewer, water lines, lighting, that kind of thing.

Now, there are still needs in other areas, whether it’s Stanley or Tioga or other high-impact areas with the central theme being: How permanent is this growth? You don’t want to overbuild for a temporary situation. Is it a seven- or a 10-year play, or is it a two-year play? What happens if oil drops to 30 [dollars per barrel]? There’s just a lot of caution out there about not repeating the mistakes that we made in the 1980s.”

This statement highlights the difficult judgement decisions faced by investors, and alludes to times where the advisory board of the BND has not made wise investment decisions. However, in this statement Hardmeyer also describes how the BND works directly with communities to determine need for funding to create infrastructure that will benefit the area’s economy over time.

Contrast this to the power of Wall Street over local or manufacturing enterprise.

As political scientist Gerald Davis quotes from the CEO of Sara Lee,

“Wall Street can wipe you out. They are the rule-setters. They do have their fads, but to a large extent there is an evolution in how they judge companies, and they have decided to give premiums to companies that harbor the most profits for the least assets” (Davis, 2009, p.21).

The BND values the success of stakeholders over shareholders and provides loan programs for high-asset local businesses. This is one way the BND supports local stakeholders which in turn support the local economy of North Dakota.

Because the BND is designed to serve a specific geographic location and its population, it is also able to create situationally-appropriate credit lines that are catered to the needs of their state. This is significant in case of natural disasters. As a response to flooding in the Red River valley in 1997, BND rapidly established a \$25 million line of credit for the City of Grand Forks, \$12 million for the University of North Dakota in Grand Forks, and \$25 million for state emergency management (Mitchell, 2015). Because the BND is responsible for helping the residents of North Dakota, state-governmental agencies were able to mobilize resources directly to those in need. And, the BND set up a disaster relief loan program for families and businesses to provide support in the event of a new natural disaster. (Mitchell, 2015).

More recently, the BND established a disaster assistance loan program for farmers and ranchers affected by ice jam flooding on the Yellowstone River in northwest North Dakota. Bank president Hardmeyer announced that \$3.75 million would be available through local lenders at one percent interest, with the maximum individual loan amount at \$75,000 (“Bank of North Dakota rolling out disaster loan program for ice jam flooding in NW ND”, May 2019).

The BND has made North Dakota more resilient to environmental changes and devastation. This responsiveness becomes increasingly important as climate change continues and local communities incur costs as they deal with environmental change. That being said, in the 2010 interview, BND president Hardmeyer discussed his

excitement about coal-to-liquid technology being built in inner Mongolia. This technology has revolutionizing potential in regard to the economic value of coal (Fettig, 2010). While it may seem paradoxical to provide aid to those affected by climate change and also support the fossil fuel industry, it makes sense according to the logic of the bank. The BND invests heavily in infrastructure to support the coal and oil industries in North Dakota because these industries are major employers for the state, so investing in their community to create jobs mean investing in these industries. BND also provides disaster assistance services, so, even if the industries the BND invests in contribute to climate change, the bank can also help mitigate some of the harm done through climate change.

The issue of investor's roles in climate change and funding the fossil fuel industry has been one of the main critiques of Wall Street banking, however the Bank of North Dakota has also participated in funding the coal and oil industries. In fact, it is difficult to tell how much the economic stability of North Dakota since 2008 has been because of the impact of the Bank of North Dakota, or how much of the economic growth has been from an extremely profitable industry from oil exploits.

Though the bank is funding local industry, since the discovery of the Bakken oil formation, the industry that has been dominating North Dakota to an increasing degree is the oil industry as people around the world come to North Dakota to work on oil fields. The oil industry has been infamous for its negative impact on the environment and water supply. Rather than enforcing high accountability measures for environmental soundness of oil rig operations, the Industrial Commission (who is responsible for overseeing and regulating the oil industry in North Dakota) has

continuously charged small fees for huge leaks and typically suspends 90 percent of the small fines given to oil companies for environmental damage (Sontag and Gebeloff, 2014, paragraph 5). The extent of the Industrial Commission's lack of enforcement of environmental regulation is apparent in the example of an oil company called Continental's eleventh leak. Despite the fact that the company had an oil derrick that had erupted into flames, badly injuring three, as well 115,000 gallons of oil spillage in their first ten blowouts, it was not until the eleventh spill that the North Dakota Industrial Commission penalized Continental with a fee of \$75,000 (Sontag and Gebeloff, 2014, paragraph 3-5). And, as stated, only \$7500 of the fee was paid, as is custom for environmental fines for oil industry from its regulator, the Industrial Commission. So, in effect, the political body that also controls the regulation of the industry helps fund infrastructure without ensuring that the industry is being ethical and not creating environmental hazards. In some ways, by holding oil industry to such low safety standards, the Industrial Commission that also designates the Bank of North Dakota's funds is actively encouraging unsafe practices that would result in higher profit at a high cost to the well-being of North Dakotans.

It is clear that not all North Dakotan's want the Dakota Access Pipeline built. Huge protest in subzero temperatures gained media coverage around the nation. The militarized police that also drew quite a lot of media attention, as they soaked protesters with fire hoses and water cannons, literally freezing the protestors. The Bank of North Dakota demonstrated its ability to quickly orient credit lines when in September of 2016 \$4 million dollars was borrowed from the bank to fund the police attacks (Evans, 2016, paragraph 2). In 2018, the amount the Bank of North Dakota loaned towards supporting

law enforcement efforts against DAPL protesters totaled \$12.8 million (Thompson, 2018). According to another North Dakotan news outlet, the total line of credit the BND has given towards funding DAPL-related costs is \$39 million (Associated Press, 2017).

It is possible for a public bank to be designed with a sustainability agenda and programs that specifically assist investment in green technology or sustainable industry. The BND public bank is not designed for consumer use, so if there are investment institutions within the state that pledge to not invest in the coal and oil industry, the health of the environmentally-conscious bank could still be encouraged by public banking practices. However, this is not an inherent part of public banking and is not present in the Bank of North Dakota. In fact, the Industrial Commission actively supports efforts to increase oil exploits, with low regulation of safety standards. The Bank of North Dakota can be used to fund preservation innovation, however instead its governance of today has decided to use it to fund a different motive: profit from oil and coal exploit, regardless of the environmental and safety harms, including funding the police who used aggressive tactics against DAPL protestors. To model a public bank after the Bank of North Dakota with the hopes of the bank being a force of environmental good would mean that special attention would need to be paid to understand how to avoid public funds being appropriated for actively harming the environment.

Public Banking Proposals and Advocates

Movements across the nation are occurring to develop ethical banking options. Some of these movements are inspired by the success of the BND, but advocate for a state bank specifically in response to the unethically of banks that fund the Dakota Access Pipeline. The Bank of North Dakota, however, invests heavily in oil infrastructure, and even the police force that pushed back DAPL protesters.

As article author Matt Stannard of Yes Magazine wrote in his 2016 article “North Dakota’s Public Bank was Built for the People – Now It’s Financing Police at Standing Rock”:

BND’s example has inspired public banking movements in more than 30 states and several cities around the country. Proponents of public banks see them as the means to a new, more sustainable and publicly accountable mode of finance. The public banking movement is especially attuned to the abuses of big private banks, and public banking advocates have joined others in attempting to pressure the large banks involved in financing the Dakota Access pipeline to withdraw their financing from the project (Stannard, 2016, paragraph 9). Stannard summarizes in this statement the push for public banking as a tool to combat big bank ethics. These public banking movements are said here to be inspired by BND and its success.

Assemblyman David Chiu, D-San Francisco, co-sponsor of AB857 (the proposed bill in California to establish state banking), also addresses the desire for a public bank as an alternative to using unethical banks, saying:

Time and time again, we have seen big banks invest our money in institutions most Californians are opposed to — oil pipelines, gun manufacturers, private prisons, and companies with unfair labor practices. This legislation allows us to take a first step towards ensuring the public’s money is used for public good (Daniels, 2019, paragraph 4).

AB857 describes the establishment of a public bank as a mechanism for divestment of public funds from unethical banking organizations and industries, among other benefits. Because the BND does invest in the fossil fuel industry, which is a major employer in the state, those working on developing public banks with sustainability-oriented agendas cannot cite BND's success as an indication that other proposals with different charters and in different political, social, and ecological environments can replicate the success of BND.

It is, however, plausible that a public bank could be successful through loan programs that brought down the interest rate of loans to green or sustainable businesses, thus making it easier for that kind of business and construction to occur in the region. There is nothing inherently wrong with investment strategies that factor aspects of the public good besides economic growth into the loan decision process as long as the investments still produced public returns. That bank, however, would be a different design than the Bank of North Dakota.

In addition to providing ethical services and the opportunity to not participate supporting the fossil fuel industry, public banks are presented in AB857 as opportunities to partner with local banks (California Public Banking Alliance). This is consistent with BND's model. Because AB857 proposes avenues for the creation of banker's bank style institutions, similar to North Dakota, in order to establish a public bank following the guidelines outlined in AB857, banking associations need to see the benefit in utilizing the public bank's services. In response to the bill, a spokesperson for the California Bankers Association said,

We are opposed to the bill. We think it's misguided, and proponents of the measure have failed to identify how the current financial system is not meeting the needs of our cities and communities, and frankly why there is a need for this bill (Daniels, 2019, paragraph 6).

The question of what needs a state or municipal public bank serves that is not currently served is a burden of advocates for public banking.

Similar to the California public banking proposal, Oregon is also using the example of the Bank of North Dakota to argue for the creation of a public bank. A draft proposal for the establishment of a municipal public bank in Portland Oregon written by members of the Portland Public Banking Alliance (2019) includes a section dedicated to describing the BND, titled, "Bank of North Dakota - - A Model, A Success" (pg. 10). BND is championed for "surviv[ing] the Great Recession without losses" (Portland Public Business Alliance, 2019, p.10) BND's involvement in local business loans is also noted in the draft proposal, as well as BND's role as a generator of funds for the state's general fund. BND's non-competitive banking structure is also highlighted. The Banking Alliance's proposal, in other words, intends to establish a public bank that is also a banker's bank.

Oregon's proposal, unlike California Bill AB857, is encouraging a construction of a specific public banking institution, whereas AB857 is a bill that *allows for* the creation of a public bank. For this reason, the Portland Public Banking Alliance's proposal is less vague than the proposal in California. The public bank in the Portland group's proposal draft "would be started with \$100 million of unencumbered capitalization from Portland Prosper and the City of Portland investment accounts" (Portland Public Banking Alliance, 2019, pg. 11). The proposed public bank would not begin funding infrastructure projects, college student loans, or loans for affordable

housing for four years. (This is the amount of time the proposal assumes is needed for the public bank to generate greater capital through unspecified “good loans” until branching out into the riskier pursuits.) (Portland Public Banking Alliance, 2019). What is considered a “good loan” has yet to be specified in this draft. Even after the four-year period, the proposed bank would not be the direct lender of these loans. The draft states “At no point will the Portland Public Bank become a so-called ‘consumer bank’, directly serving individual public consumers” (Portland Public Banking Alliance, 2019, pg. 5). This model also advocates for a “banker’s bank” public bank.

The values articulated in the Portland Public Banking Alliance (2019) draft will “prioritize restoring and regenerating our environment and preparing for the negative effects of climate change” (pg. 5) are similar to California’s value statement in AB857. It is assumed that these values represent the values and priorities of the local community. While BND does fund efforts to alleviate the impacts of climate change, it supports the coal and oil industry. North Dakotans who support the underregulated oil industry are being represented by the Industrial Commission’s actions and Bank appropriations, however natives and others who fear for their water are actively not being represented by the Industrial Commission and the public bank. In sum, state banking can more directly reflect and respond to the needs, values, and conditions of its local community, however in the case of North Dakota it seems that the interest of profit over people is still the value being represented by their public bank and their Industrial Commission.

Points of Consideration Regarding Viability of Public Banking

Proposals

The state bank, BND, does strengthen local banks by increasing their ability to compete with Wall Street banks. Local community banks and credit unions, however, may not benefit from this same competition. Local banks and their banking associations would need to be on board with utilizing the public bank. Applying a model that has deep historical roots and picking some features of it and expecting the same outcome if the model is applied elsewhere highlights a lack of models and a need for deeper consideration about the implications of changes of applications in the model, with a regard for how the location and history of the model have impacted its outcome and accounting for regional differences. The lack of success of establishing new public banks is likely due to its early stages of understanding. Sociologist Marc Schneiberg (2013) reflects on the public banking movement, writing:

“What, then, accounts for what looks like a consistent failure to transpose the core of the North Dakota state bank model into other states? In tackling that question, the case poses a cautionary tale and an analytical dilemma both for 1) actor-centered institutionalisms that emphasize the potency of generative, reflexive action, and 2) emphases on the explanatory power of mechanisms that neglect the structural conditions under which mechanisms become efficacious. Two potential answers to the question are that institutional entrepreneurs involved were insufficiently skillful and that change takes time, due partly and simply to inertia. Absent arguments that specify precisely what skills are needed, how one might empirically determine their presence (or absence), and how long one should wait, such claims remain unacceptably post hoc. That said, there is some evidence from interviews and the bills themselves that some proposals and supporting rationales were sometimes too hastily crafted to be effective, raising concerns among local advocacy groups and banking law experts that safeguards against moral hazards including the political use of bank funds were not

fully worked out. Moreover, time frames and failure rates typically associated with legislative proposals that eventually pass in the American states may exceed two years and 1 out of 21 by an order of magnitude.” (p.302)

More time and deeper consideration are needed for a well-justified and thoroughly planned, considered, and implementable public bank to be established elsewhere in the United States. Currently, the U.S. has one functioning state bank and no real consensus on what a standard state banking model looks like. Efforts to create state banks are using the only existing model, that of BND, and there should be caution in this approach since it is not clear how local priorities and values become institutionalized into state banks. This lack of clarity creates complexity and uncertainty for decision makers, whether it is for those proponents of state banking or those seeking to maintain the status quo.

Even though change may seem difficult, policymakers continue to look for ways for the government to generate more funds besides taxation. This is one benefit of public banking that makes it hard to give up hope on its continued success. Public banking bills are being drafted, and the holes in understanding that Schneiberg (2013) points out are being considered as groups work to draft bills for their region in a modern era picking some features to replicate the BND and adjusting others to match the values and specific needs of the region.

It is clear that the case of public banking in North Dakota has a unique and deep history that will not be replicated exactly elsewhere, particularly not if the newly established banks represent the interests of the environmental/green industry over the

fossil fuel industry. Because state banks are systemically tied to feedback into our public institutions and promote the common good, one value that all state bank models are likely to share is a concern for the health, prosperity, and stability of their local communities.

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