

**Office of the Treasurer & Tax Collector**  
City and County of San Francisco



José Cisneros, Treasurer

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**MUNICIPAL BANK FEASIBILITY TASK FORCE**  
**PRESENTATION MATERIALS FROM MEETING 2**  
**MARCH 20, 2018 3:30-5:30 PM**  
**CITY HALL ROOM 305**



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**MUNICIPAL BANK FEASIBILITY TASK FORCE  
STATEMENT OF WORK**

**SOURCE:**

Use the City and County of San Francisco's funds in a **safe, secure, and self-sustaining** manner to achieve policy goals

**SCOPE:**

The City and County of San Francisco (with attention to regional collaboration and impacts)

**POLICY GOALS:**

As discussed in Meeting 1, the Task Force will focus on the following policy goals:

- **Bridge gaps in the current banking system and in the allocation of public resources and private investments to promote equitable community development and serve the underserved**, including un- and under-banked individuals and communities, cannabis businesses, and lending for small businesses
- **Invest in public works**, such as infrastructure and affordable housing
- **Foster stronger market conditions** for public benefits in the banking industry

**DETAILED INVENTORY OF GOALS:**

To evaluate various opportunities and solutions, it is crucial to drill down and provide a detailed explanation of the Task Force's policy goals. For example:

- Affordable housing
  - Provide or facilitate lower-cost funding for acquiring existing properties
  - Provide or facilitate lower-cost funding for housing development and rehabilitation
- Infrastructure finance
  - Provide or facilitate lower-cost funding for non-housing infrastructure projects
- Un- and underbanked individuals
  - Provide or facilitate access to non-predatory banking services and products, particularly for marginalized communities, such as communities of color, documented and undocumented immigrant communities, and low-income communities

- Provide or facilitate alternatives to predatory products and services, such as payday loans
- Provide or facilitate products and services that will assist in community wealth-building
- Small business lending
  - Provide or facilitate loans for small businesses, particularly those run by individuals from traditionally marginalized groups, such as communities of color, documented and undocumented immigrant communities, and low-income communities
- Cannabis banking
  - Provide or facilitate payments solution for cannabis businesses
  - Provide or facilitate location for deposits for cannabis businesses
  - Provide or facilitate loans for cannabis businesses

### **GUIDING PRINCIPLES:**

The Task Force felt it was crucial to also outline the animating principles behind these goals. Ultimately, these principles can be used to evaluate potential solutions. These guiding principles include:

- Safety of the City's money and sustainability of funds
- Equity: Just and fair economic inclusion in the City and region, where everybody can participate, prosper and reach their full economic potential
- Environmental sustainability
- Focus on marginalized communities, including communities of color, immigrant communities, undocumented communities, and low-income communities
- Open and democratic governance
- Intentional cooperation and competition with private businesses
- Creation of new financial services, products and philosophies that supplant traditional banking practices and philosophies
- Regional focus
- Investment in communities rather than wealth extraction
- Opportunities for efficiency and partnerships where possible

### **OUTCOME:**

After meeting for six months, the Task Force will evaluate and report on how to achieve the policy goals, while adhering to the guiding principles as well as relevant legal requirements. The Task Force will consider the following solutions:

- Various municipal bank structures, as well as
- Interim opportunities to leverage the City's banking and investment practices



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# PUBLIC BANK REQUIREMENTS

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## 1. WHAT IS A PUBLIC BANK?

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- A bank is a financial institution **licensed to receive deposits and offer loans.**
- Banks may perform **retail banking**, serving individuals and small businesses, or **wholesale banking**, serving large institutions like governments and other banks.
- A **public bank** is a banking institution affiliated with a locality, state or nation. The actual functions of a public bank could vary widely, depending on the jurisdiction's needs. In California, so long as a public bank accepts deposits, it will be regulated as a bank. Cal. Fin. Code §§ 1004-1005
- Below is a non-exhaustive list of administrative and operational requirements for a public bank in San Francisco.

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## 2. ADMINISTRATIVE REQUIREMENTS TO START A BANK

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- Bank Charter** – To operate, a financial institution needs a charter, granted either by the state or federal government. In California, financial institutions can be chartered as credit unions or commercial banks. Neither structure may be fully appropriate for a public bank.
- Insurance** – Under California state law, all commercial banks must have FDIC insurance, which insures deposits up to \$250,000. However, the FDIC may be reluctant to insure a public bank. California Credit unions must be insured through the National Credit Union Association or a private provider.
- Access to the Federal Reserve** – The Federal Reserve operates an electronic payment system for transferring money across banks. To access the Fed's payment system, a bank needs a master account with the Fed or a correspondent banking relationship.
- Capitalization** – A bank must hold between 8 and 10+ percent of its assets in bank capital (fully-paid stock). This capital must cover start-up costs as well as anticipated growth. For a public bank, this capitalization could come from a legislative appropriation, a bond issuance or philanthropy.

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## 3. OPERATIONAL REQUIREMENTS TO START A BANK

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- Governance Structure** – A bank must have a governance structure (Board of Directors, President, bylaws etc.). A public bank should be structured to insulate its operations and decision-making from political pressure.
- Board of Directors** – A bank must have independent, knowledgeable individuals willing to serve on its Board. Bank directors can be held personally liable for the bank's activities, but directors and officers liability insurance can mitigate this risk.
- Human Capital** – Banking is a highly technical and specialized field and requires a workforce with specific expertise and experience.
- Infrastructure** – A bank requires significant, costly infrastructure, including information technology systems.
- Deposits** – To sustain operations, a bank needs an initial funding commitment and a deposit-base. Any City money currently held in bank accounts and the Pooled Investment Fund has already been allocated via the budgetary process. It cannot be used or invested, except in accordance with State Law and the City's investment policy (see Section 5 below).

#### 4. RESTRICTIONS ON BANK OPERATIONS

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- No Illegal Activity** – Federal law prohibits banks from handling money stemming from illegal activities, including violations of federal drug law. Cannabis is considered a Schedule I drug under the Controlled Substances Act, and therefore federal law prohibits banks from serving the cannabis industry. In 2014, the U.S. Department of Treasury Financial Crimes Enforcement Network published guidance on how banks can handle relationships with cannabis businesses, but this guidance does not immunize banks from prosecution or liability under federal law, and it mandates extensive compliance monitoring.
- Conflicts of Interest** – Federal law prevents a bank from conducting business with itself and related parties. It is not clear whether government entities are included in this prohibition, but conflict of interest issues may arise for a public bank. 12 U.S.C. § 371c

#### 5. RESTRICTIONS ON PUBLIC FUNDS

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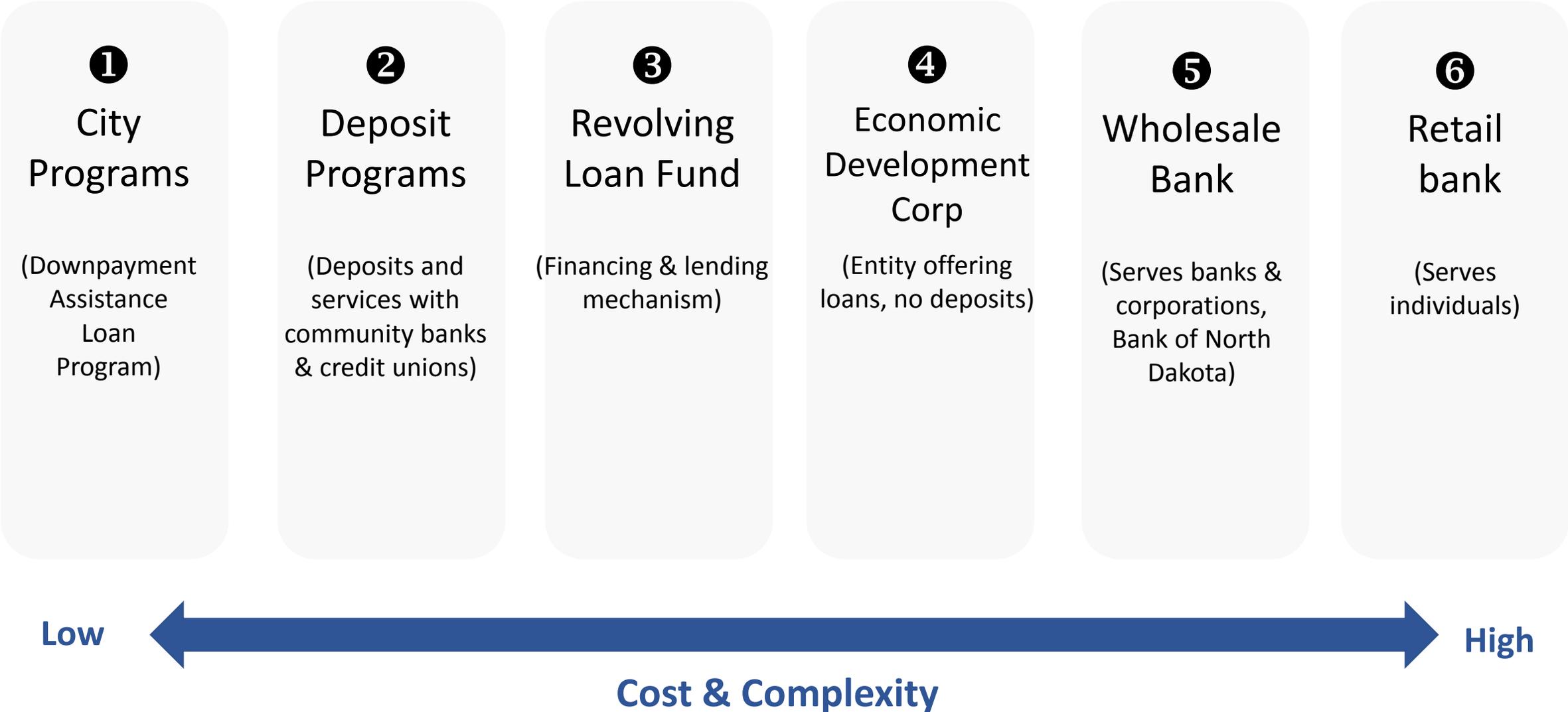
- Safety, Liquidity, Yield** – California law mandates that trustees of public money, including the San Francisco Office of Treasurer & Tax Collector, follow a three-tiered hierarchy in managing public money. First, they must preserve the safety of the principal; next they must ensure liquidity needs are met, and lastly, they must achieve a reasonable rate of return. They must also act as a prudent investor would. Cal Gov't Code §§ 53600.3-53600.5
- Collateralization of Deposits** – California law requires that financial institutions holding government deposits collateralize these deposits above the FDIC insurance limit either via securities (110% of value), first deed mortgages (150% of value) or a letter of credit from the Federal Home Loan Bank of San Francisco (105% of value). Cal Gov't Code § 53652
- Community Reinvestment Act (CRA) Rating** – To be eligible to hold government deposits, a financial institution must receive an overall CRA rating of “satisfactory” or better. Cal Gov't Code § 53635.2
- Investment Restrictions** – California law and San Francisco's investment policy specify how the City may invest the surplus money it holds. Cal Gov't Code § 53600-53610
- Limit on Deposits** – California law limits the total amount of money that a government may deposit in one institution to the capital of that institution. Cal Gov't Code § 53635.2
- Depository Institution** – California law requires that governments deposit their funds into a “state or national bank, savings association or federal association, federal or state credit union, or federally insured industrial loan company.” Cal Gov't Code § 53648

#### 6. OPPORTUNITIES FOR STATE LAW REFORM

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- Create a Public Bank Charter** – There are drawbacks to chartering a public bank as a commercial bank or a credit union. State law change could create a public bank charter that specifically contemplates a public bank's business model and governance structure.
- Change Insurance Requirement** – Currently, a commercial bank in California must have FDIC insurance, which may not be available to a public bank. State law reform could allow a public bank to access private insurance or it could eliminate the insurance requirement entirely.
- Eliminate Collateralization Requirement** – State law reform could eliminate the requirement that a public bank collateralize government deposits. Cal Gov't Code § 53652
- Eliminate Limit on Deposits** – State law reform could eliminate the requirement that a public bank have capital equal to or greater than government deposits. Cal Gov't Code § 53635.2

# Spectrum of Opportunities



# Starting a Municipal Bank Regulatory Considerations

Marc Franson  
Chapman and Cutler LLP

San Francisco Municipal Bank Feasibility Task Force



# Outline

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- I. Existing Structures – “Traditional Bank”
- II. Municipal Bank Structures
- III. Regulatory Issues in Either Scenario
- IV. Observations

# Basic Definitions

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## Traditional Definition of a Bank

- FDIC Insured
- Accepts Deposit and Makes Commercial Loans

## Charter is required to take Deposits in California

- Traditional: Existing Alternatives
- Public: Not authorized now

# Traditional Financial Institutions

- Holding Company – Federal Reserve
  - Bank Holding Company Act
  - Limited to Banking and Related Activities
  - Limits Transactions with Parent/Affiliates
- National Bank – Office of the Comptroller of the Currency (OCC)
- Federal Savings Bank – OCC
- State Bank – California Department of Business Oversight (DBO)
  - Fed Member – Federal Reserve and State (Access to Fed Discount Window)
  - Non Fed Member – Federal Deposit Insurance Corporation (FDIC)
- Federal Credit Union – Common Field of membership/limits on business loans – National Credit Union Administration
- State Credit Union – Membership requirements (500) – DBO

# Alternatives

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- Finance Company (no deposits) – DBO Finance Lender License
- Community Development Corporation/ California Benefit Corporation
- Arrangements with existing Financial institutions
- State Public Bank (not a bank holding company)

# Issues Re: Municipal Banks in Traditional Bank Structure

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- City as Holding Company – Affiliate Transactions/Limited to Banking
- Deposits – FDIC Insurance – Triggers other laws – Community Reinvestment Act
- Capitalization (8% of assets - more for startup)
- Access to Payment systems – Cost of Fed Membership (6% of capital)
- Adhere to Business Plan – 3 years
- Cannabis / Federal Reserve Payments System
- Regulatory Scrutiny
- Liability

# Process for Starting a Bank

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1. Pre-Filing Meeting
2. Application
  - Business Plan – Feasibility study and marketing plans
  - Officers and Directors – Information
  - Premises
  - Funding – Capital
  - Pro Forma Financials
3. Publication
4. Background Investigations
5. Processing
6. Pre-opening exam

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## Regulatory Considerations

- FDIC Insurance
- Capital – (10% of assets) Adequacy
- Management
- Competition
- Convenience and Needs of the Community
- Anti-Money Laundering
- Systemic Risk
- Source of Strength

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## Practical Considerations

1. Time – typically a year or more
2. Cost – up to \$1 million
3. Regulatory Uncertainty

# Municipal Banks

1. Bank of North Dakota
  - Created by statute
2. Government Development Bank of Puerto Rico - inactive
  - Created by statute
3. New Jersey – legislation pending
4. Michigan – legislation pending
5. California – no statute – legislation needed
  - Qualification as depository for public funds
  - Prohibition for county to give/loan its credit – City Legal Opinion
  - Constitution: limits state to give/lend the credit of cities/counties – City Legal Opinion
  - Restrictions on city owning corporate stock
  - Collateral requirements for public deposits
  - Other requirements

# Common Themes of Municipal Banks

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- Regulatory Oversight and Rules – State Banking Regulator
- Governing Body
  - Bank experience
  - Insulation from politics
  - Indemnification
- Guarantee of Deposits
- Examination and Audit
- Powers - Similar to state banks
- Profitability

# Bank Regulation: Effect on Municipal Banks

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- Need for core deposits/debt funding: insurance/guarantee
  - Retail Deposits: compliance (Truth in Savings)
  - Security for public deposits
- Lending: Underwriting Standards
  - Equal Credit Opportunity Act: Compliance
  - Retail Lending: Compliance (Truth in Lending, RESPA, HMDA)

Capital: public funds/bonds

- Depends on size/business plan
- Fund expenses/losses

# Bank Regulation: Effect on Municipal Banks (continued)

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- Cannabis: Federal law prohibitions
  - Anti money laundering/criminal penalties
  - Law applies to municipal bank
  - Compliance Costs: FINCEN Guidance
  - Risk of Liability
  - Access to Federal Reserve Payment System

# Observations

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- Traditional Bank Structure: Regulatory Challenges
  - Not suited for Municipal Bank – Uncertainty
  - FDIC Insurance is Complicating Factor
  - Cannabis is Complicating is Factor
  - More time, effort and cost to pursue – regulatory scrutiny
- Municipal Bank Structure
  - Legislation needed for Public Bank Charter
  - Still Regulatory Oversight
  - Cannabis is Complicating Factor – Fed Account

# Observations (continued)

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- Start Up = Time and Cost
  - Professional Services
  - Management and Personnel
  - Technology
  - Funding and Capital
- Many Laws still Applicable to Municipal Bank
  - Compliance Structure
  - Privacy and Data Security
- Fundamental Question – Authority of Municipality to Start Bank
  - Possibility of Legal Challenge
  - Can be answered by legislation

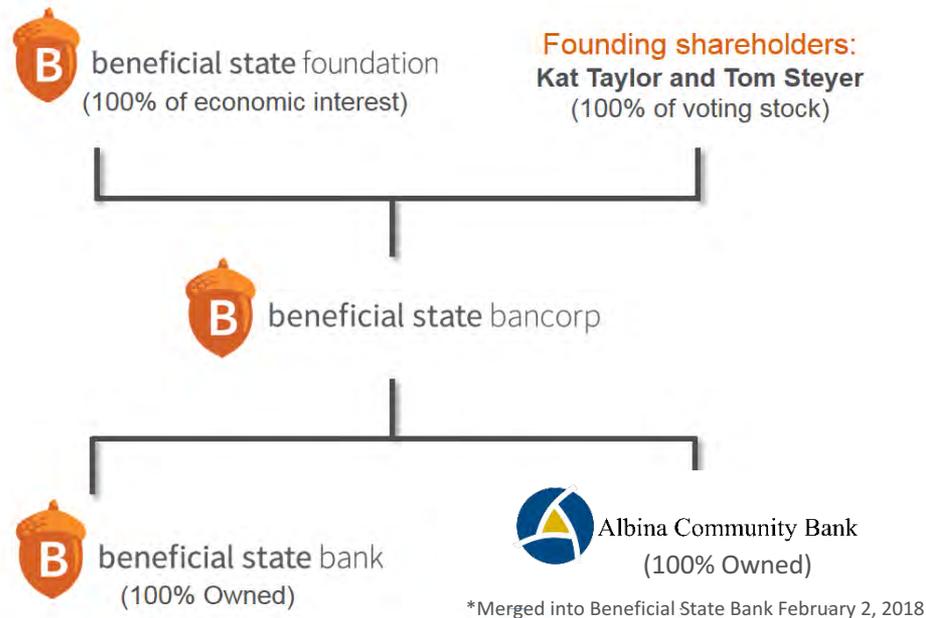
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# Beneficial State Bank

# Aligned Ownership



## Unique Ownership Benefits

All economic interest owned by a  
501c3 nonprofit foundation



Governance in the  
public interest



Profits flow back to communities  
we serve



**Banking belongs to all of us  
and is the original and most  
important form of....**



**...which sustains local communities**

**In spite of regulatory efforts,  
banking has not been serving the  
public interest;**

**Banking has been dragging a...**



# Train of Misery

- **\$321 billion:** Fines paid by our largest banks in the last seven years.
- **4.9 million:** Number of families who lost their homes to foreclosure in the downturn.
- **16%; 53%; 66%:** Household wealth reduction of Whites; African Americans and Latinos, respectively, in the downturn.
- **One third:** Percent of bank tellers who rely on some kind of public support.
- **\$250 billion:** Bank-provided coal financing in the last 10 years leading to 140mm tons of hazardous waste in the U.S.





# But we can fix banking, together.

- Take back our power of choice.
- Align our banking with our values.
- Pioneer and prove a new model to migrate deposit, equity and human capital.
- Increase the benefit of resiliency of the Banking system.



**We can change the banking  
system for good.**



Click the link for our video!

# Theory of Change

Step 1: Prove a new bank model that delivers social justice and environmental well-being while remaining financially sustainable.

Step 2: Migrate deposit, equity, and human capital to beneficial banking through a new model.

Premise: The bank must always be safe, sound and compliant.

beneficial state bank

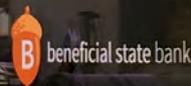


beneficial state bancorp

## Progress to Date

Social enterprise CDFI, Certified B Corp bank founded in 2007.

Grown organically and through aligned acquisition to \$927 million in assets, 253 colleagues and 17 locations operating in California, Oregon and Washington.



Commercial Banking Office

Mon - Thurs: 9am - 5pm  
Fri - Sat: 9am - 5pm

FDIC

build something beautiful



# BUILD A STRONG CULTURE

TRUST

JUSTICE

EMPOWERMENT



# BUILD AN ALIGNED PRODUCT AND SERVICE OFFERING



Fair and transparent  
personal banking



Empowered business and  
nonprofit banking



Mission –driven

# Align the Lending Practice

- To ensure **ALL BENEFIT, NO HARM**
- To direct at least **75%** of our loans to **changemakers** – customers healing their communities and the natural world
- To ensure that **none** of our loans are put to use against a better future

# Business and Nonprofit Impact



**4,800**

**AFFORDABLE HOUSING  
UNITS SUPPORTED**



**290<sub>MM</sub> kWh**

**RENEWABLE ENERGY PRODUCED**

**119,000**

**ACRES OF US FOREST  
CARBON SAVING EQUIVALENT**



**6,900**

**VALUES-ALIGNED  
CREDIT CARDS**



**\$300MM**

**TO IMPACT**

**\$0**

**TO FOSSIL FUELS**

# Consumer Impact



**\$100MM**  
LOANS FOR  
CREDIT-CHALLENGED  
INDIVIDUALS &  
ENTREPRENEURS

**\$100k**  
SAVED IN IDAS BY  
ASSET-BUILDING SAVERS



**3500**  
2016 FINANCIAL EDUCATION  
WORKSHOP ATTENDEES

# Practice Radical Transparency



Third Party  
Audited



Data Driven



Publish Outcomes

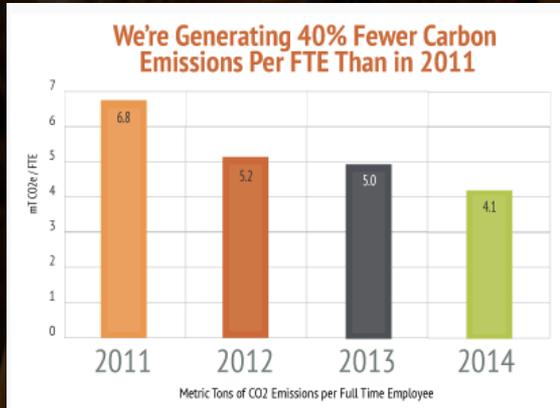
# About our Internal Practices

## BENEFICIAL EMPLOYMENT

- Living wage policy
- Commitment to gender and ethnic diversity
- Volunteering
- Matching donations
- Sponsorships

## SUSTAINABILITY

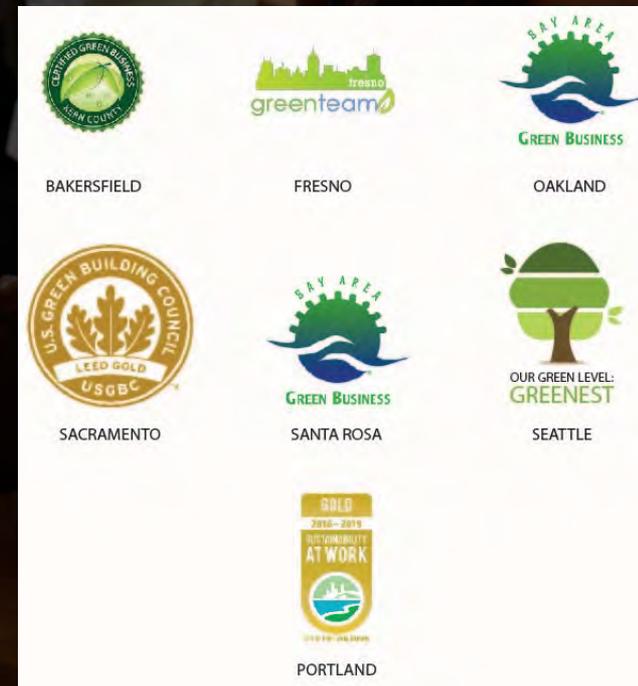
Measuring and Decreasing our Footprint



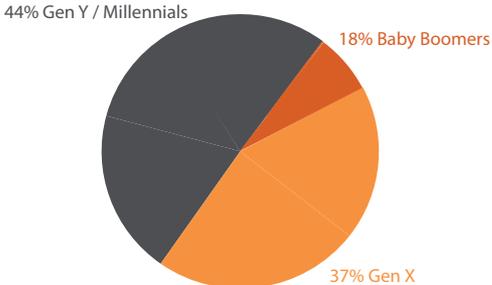
Being Carbon Balanced



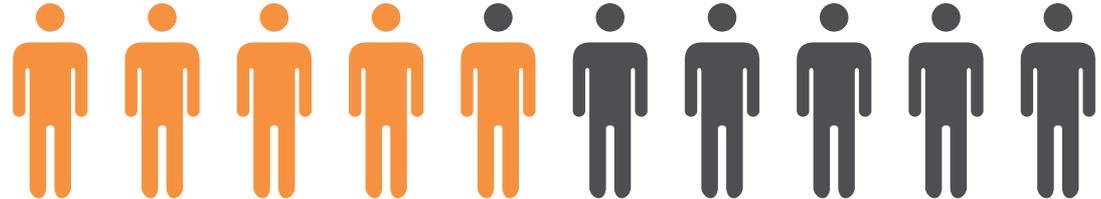
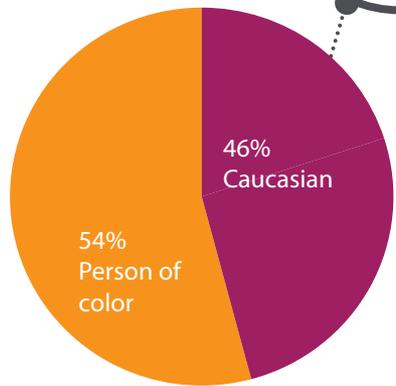
Green Business Certifications



# Our Human Capital Stats



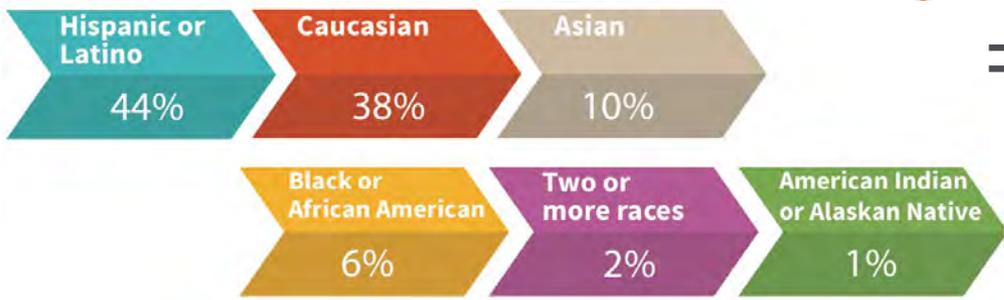
**62%** management diversity  
female and people of color



**4.7 / 10** About 47% of our new employees are referred by current employees.  
About 25% from job boards, and 27% from agencies.

women **60%** men **40%**

**59** new hires in 2017



Overall Employee Favorability = **94%**



# About our Accountability

**EBALDC 2013**

Community Bank of the Year

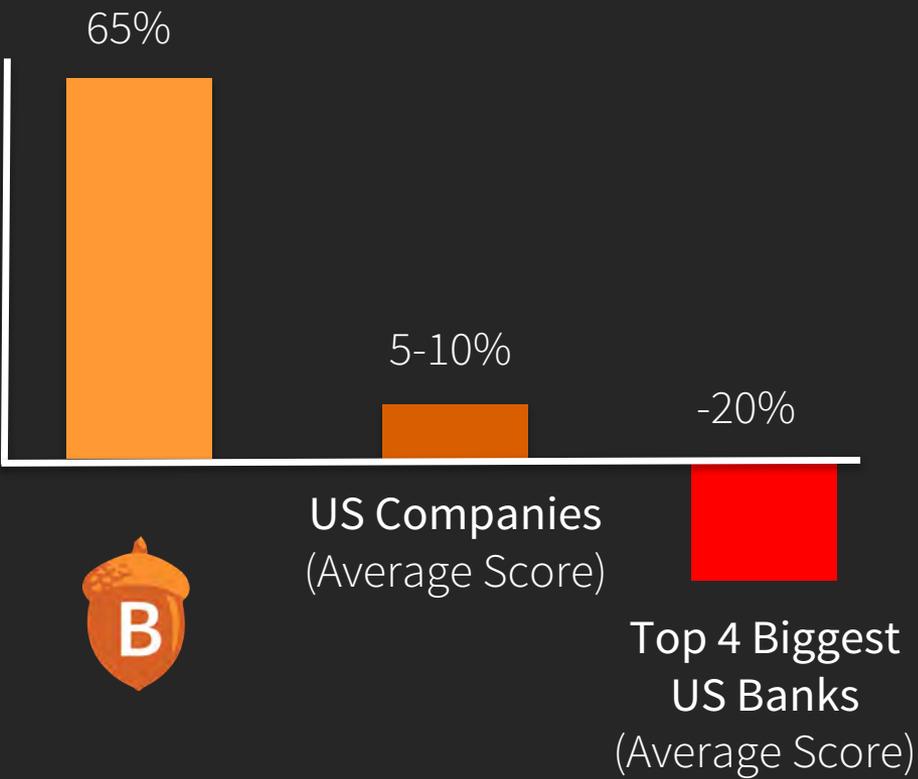


**150%**  
of living wage in  
all markets



# ABOUT OUR STAKEHOLDERS' EXPERIENCE

Our customers are **very likely** to recommend Beneficial State Bank to others.



\* The Net Promoter Score (NPS) is calculated by subtracting the percentage of “detractors” (those unlikely to recommend) from the percentage of “promoters” (those likely to recommend)

# Join Allies for Strength

## Beneficial State Ecosystem



### **Beneficial State Foundation**

A foundation owning the majority of economic interest of the bank and supporting the bank's mission.

*Co-Founded by Tom Steyer & Kat Taylor*



### **Radicle Impact**

An early stage equity fund pursuing transformational solutions in the areas of good money, good food and good energy.

*Co-Founded by Tom Steyer & Kat Taylor*



### **NextGen America**

Acts politically to prevent climate disaster, promote prosperity, and protect the fundamental rights of every American.

*Co-Founded by Tom Steyer & Kat Taylor*



### **Brightpath Capital Partners**

Growth equity fund supporting job creation, wealth creation and sustainable environments.

*Co-Founded by Tom Steyer & Kat Taylor*



TomKat Ranch

### **TomKat Ranch Education Foundation**

Serves as a learning laboratory for animal agriculture focused on climate stability, nature's benefits, healthy food, biodiversity, and vibrant community.

*Co-Founded by Tom Steyer & Kat Taylor*



CENTER FOR  
ECOLITERACY

### **Center for Ecoliteracy**

The center supports leaders in cultivating conditions for social impact and sustainable systemic change.

*Foundational support by Tom Steyer & Kat Taylor*



### **University Research Institutes**

Research institutes at Harvard, Stanford and Yale Universities focused on solutions to climate change.

*Funded by Tom Steyer & Kat Taylor*



# Join Allies in Advocacy

## VOICES FOR CHANGE

We're not doing this alone!



### GABV

Independent network of banks using finance to deliver sustainable development for underserved communities & the environment.

*Beneficial State Bank is a founding North America member*



### CDBA

Voice and champion of banks and thrifts with a mission of serving low and moderate income communities.

*Beneficial State Bank is a Board Member*

# **Municipal and Public Banking:** Practical Considerations for Alignment with Community Banks and Credit Unions



# Alignment of a Bank for Benefit of the Public Good

## Aligned Governance

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- *Respecting multiple stakeholders*
- *Safe, sound, secure*
- *Promoting financial literacy*

## Statement of Accounts Balance Sheet

### Assets

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- *Cash*
- *Securities (meet loan standards)*
- *Loans benefitting all (75%)*
- *Local benefit/decisioning*
- *Sustainable/Regenerative*
- *In the Real Economy*
- *Foreclosure/Homelessness prevention*
- *Fairly Priced*
- *Loans not Harmful (25%)*
- *Non-Predatory*
- *Migrating away from Fossil Fuels*

### Liabilities

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- *Deposit Products & Services*
- *Fair and Transparent for all*
- *County Employee Accounts*
- *Equity Profit Sharing*

## Corporate Practices

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- *Beneficial Employment– percentage part-time, living wage, executive compensation ratio*
- *GHG, Landfill and Water Footprint*
- *Third party assessment – e.g. CDFI, B Corp, JUST*
- *Radical Transparency*



# Community Banks

A community bank's primary function is to serve the convenience and needs of its communities by:

- Offering deposit services, keeping funds safe and sound
- Lending funds to commercial and consumer borrowers in its communities
- Providing payment transaction services – including debit and credit cards, checking accounts and electronic payments
- Providing financial education to consumers so they can avoid debt traps and other predatory offerings
- Some community banks offer specialized functions such as:
  - Non-deposit investments
  - Trust services
  - Merchant Banking Services: investment banking services including bond issuance

*Beneficial State issues a fair and transparent credit card to subprime card holders, a unique service offered by a community bank.*



# Serving our Community

## A community bank best serves its community by:

- Offering fair and transparent consumer credit, deposits and transaction services
- Lending funds within the communities from which it attracts deposits to provide fairly-priced working and term capital to local businesses, non-profits and individuals
- Providing services that benefit and do not harm the community.
  - Those services include its employment practices, diversity and just compensation practices
- Supporting low income housing projects through loans and investments
- Supporting clean and green public infrastructure
- Providing financial education so that community members can be less vulnerable to predatory products
- Making retail banking products accessible and cost beneficial to the un- and underbanked
- Reinvesting through loans and investments or the financing or issuance of municipal bonds with minimums that are affordable to most investors
- Providing products and services to support redevelopment and infrastructure improvement



# Customer Base

A bank's customer base is broad:

- Consumers
- Businesses
- Charitable and not-for-profit organizations
- Municipalities
- More broadly, its community including: natural resources and environmental commons on which it depends



# Possible Banking Functions

- **Investment banking**
  - To lower cost and align purpose of issuing municipal bonds
- **Municipal bond underwriting/issuance**
  - To prioritize and preference through lower pricing, affordable housing, high quality free public education, renewable energy, and other public goods.
- **Commercial Banking (large and small businesses)**
  - To provide more credit availability, fairly priced to good businesses, non-profit organizations, and other non-individual entities
  - To provide transaction and savings accounts as well as cash management services to good businesses, non-profit organizations, and other non-individual entities
  - To provide credit to support low income housing projects
- **Retail banking**
  - To provide better credit availability, fairly priced and radically transparent to the un and under banked and in service of the most vulnerable
  - To provide responsible transaction and savings accounts as well as payment services to consumers, with special emphasis on the un and underbanked
  - All consumer products should be fair, transparent, provide financial literacy education and outcompete predatory offerings
- **Merchant payment processing**
  - To sustain and protect small businesses, enabling safe and secure payment processing
  - To provide payment processing for municipalities
- **Wholesale banking**
  - To achieve efficiency and effective risk management through partnerships
- **Banking services for locally-legal but nationally illegal businesses**
  - Municipal banking services without FDIC insurance for deposits to provide credit, deposit and payment services to cannabis businesses



# Municipal Bank vs Community Bank

What functions can a municipal bank offer that a community bank cannot:

- Underwriting and issuing municipal bonds
- Financing municipal bonds to promote investments in:
  - Affordable housing
  - Renewable energy
- Climate-friendly infrastructure redevelopment projects
- Providing uninsured deposit, transaction and credit services to companies which are legal in the State, but illegal on a Federal basis, such as cannabis



# Services Offered via Collaboration

Some bank offerings community banks would like to provide but would need a collaboration or vendor partnership to reach the scale required:

- Infrastructure banking and municipal bond financing, underwriting or issuing
- Large affordable housing construction projects through loans or LIHTC investments
- Payroll, Lockbox and other specialized cash management or payment services
- Regional Reach or collaboration with other municipalities
  - To allow for diversification and achieve scale
- Competitive alternatives
  - To provide discipline and disintermediate from extractive existing financial providers
- Banking Decision-Making
  - To provide a selection process for financial services providers disciplined to public interest



# Bank Accountability

Required bank accountability no matter where the function lives:

- Bank Governance
  - Aligned in and representative of the public interest
- Bank Assets
  - Lending and investments practices aligned in the public interest
- Bank Liabilities
  - Transactional and savings products and practices that are fair and transparent
- Affect of accountability to the public
  - Disciplining the main banking system in the public interest
  - Disintermediation to a system that benefits the public

*Requires defining what social equity, environmental justice, sustainability, regenerative practice means and running third-party, auditable metrics on services, employment practices, and public impact.*





build something beautiful.



beneficial state bank



# Economic Opportunity For All

**Presentation to SF Municipal Bank Feasibility Task Force  
March 20, 2018  
Steve Zuckerman**





## **Our Mission**

Creating and protecting ownership and economic opportunity for all, especially people of color, women, rural residents and low-wealth families and communities.

# Banks and Credit Unions



## Banks and Credit Unions

### What's the SAME



Checking Accounts



Savings Accounts



Auto Loans



Home Loans



Online Banking



Term Certificates



Phone Banking



Federally Insured



Mobile Banking



Nationwide ATM Network

### What's the DIFFERENCE

#### BANKS

For profit

Led by paid Board of Directors

Answer to stockholders

#### CREDIT UNIONS

Not for profit

Led by volunteer Board of Directors

Answer to membership

### The Credit Union ADVANTAGE

- Community oriented
- Member owned
- Low or no fees
- Fair and affordable loan rates and terms
- Low balance requirement to maintain membership

# Mission SF



# About Self-Help FCU



- 30 branches and lending offices across California, Chicago, and Florida.
- Serving nearly 80,000 mostly low-income members.
- Over \$1 billion in assets
- Almost 350 employees
- About \$150MM loaned annually



## How we fulfill our mission

- Providing fair and affordable consumer financial services – accounts and loans
- Lending responsibly to homebuyers, businesses, and non-profits
- Building new homes and bringing back historic buildings
- Fighting for policy and system change in the financial sector through research and advocacy



## More specifically...

- Savings, checking, checkless checking – no overdraft fees
- Money Market, CD, etc.
- Unsecured consumer loan
- Special loans – Fresh Start, DACA
- Auto loans
- Mortgage Loans
- Commercial Loans
- Fair and transparent
- Multiple forms of ID
- Designed for low wealth families
- Manual, flexible underwriting
- Use of alternative credit sources
- No “gotcha” fees
- Financial capability resources

# Who We Serve

## LOANS TO:



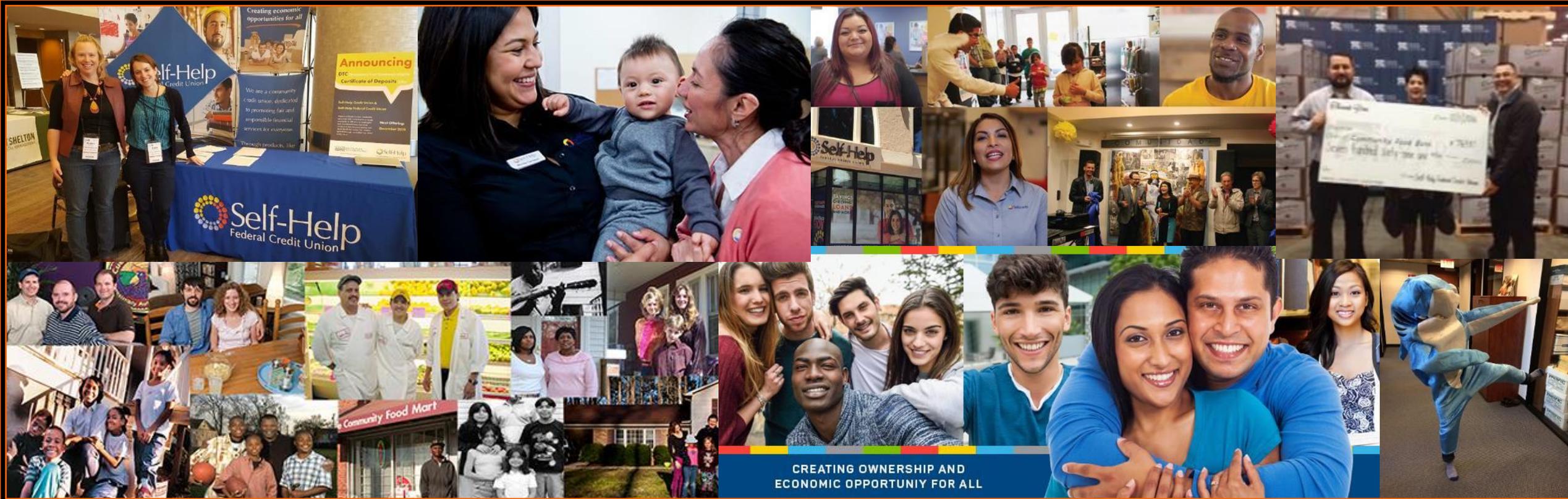
# The Self-Help Family



# The Self-Help Bicycle



# Questions/Discussion



LAWYERS' COMMITTEE FOR  
**CIVIL RIGHTS**  
OF THE SAN FRANCISCO BAY AREA

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# BANK OF NORTH DAKOTA

Presentation by Sushil C. Jacob

Senior Attorney, Economic Justice

For the San Francisco Municipal Bank Feasibility Task Force

March 20, 2018

# OUTLINE

- At a glance
- Framework of *Public Bank Regulatory Fact Sheet*:
  - What is a public bank
  - Administrative requirements to start a public bank
  - Operational requirements to start a public bank
  - Restrictions on public funds
  - Restrictions on bank operations
  - Relationship with commercial banks
  - Opportunities for state law reform

# BND ECONOMIC IMPACT AT A GLANCE

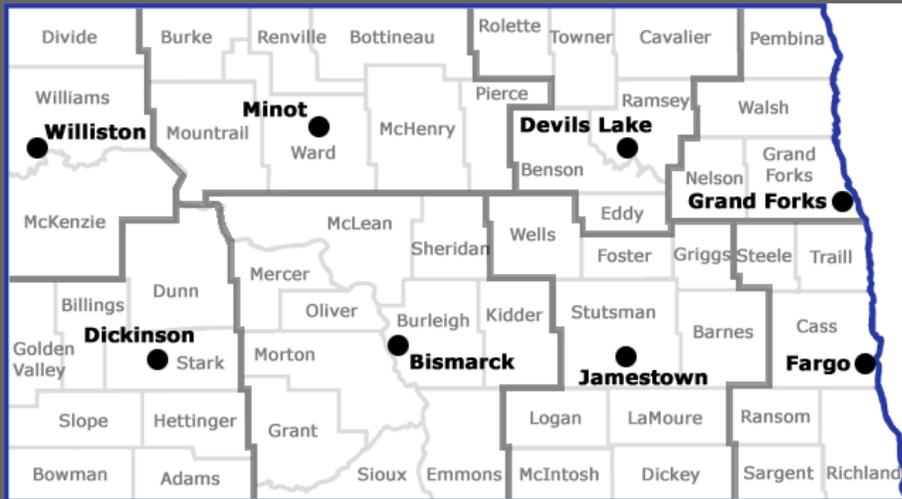
- The Bank of North Dakota, a bank with approximately \$7 billion assets, is the only state chartered public bank currently functioning in the United States. The size of the Bank of North Dakota makes it a relatively small bank in the structure of the U.S. banking sector. For instance, if it were a private sector bank, it would be classified as a community bank.
- *Source: Davis Polk Wardwell (DPW) Memo*

# BND ECONOMIC IMPACT AT A GLANCE

- Over the last 20 years, BND has made \$385 million in payments to the general fund. That works out to about \$3,300 per family — meaning North Dakota households received \$3,300 more in public services than they had to pay for through taxes.
- *Source: Institute for Local Self-Reliance*

# A TALE OF TWO ~~CITIES~~ SIMILAR-SIZED POPULATIONS

## North Dakota



ND Population: 755,393  
ND Area: 71,230 mi<sup>2</sup>  
Population Density:  
10.5 people per mi<sup>2</sup>

## San Francisco



SF Population: 870,887  
SF area: 46.9 mi<sup>2</sup>  
Population Density:  
18,679 people per mi<sup>2</sup>

# ECONOMIC COMPARISONS

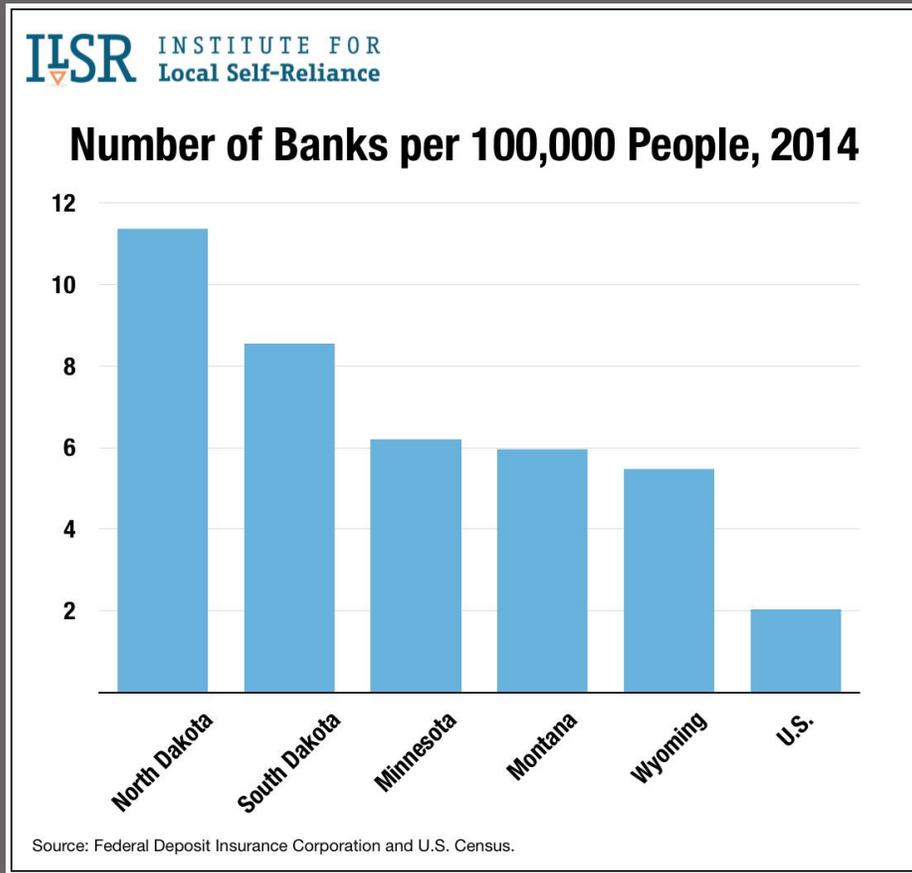
## North Dakota

- State Budget (FY 2017-19): \$13.55 billion
- **Budget per capita: \$17,937**
- *Source:*  
<https://www.nd.gov/omb/sites/omb/files/documents/agency/financial/state-budgets/docs/budget/2017-19-budget-highlights-brochure.pdf>

## San Francisco

- SF budget= \$10.1 billion
- **SF budget per capita: \$11,597**
- *Source:*  
<https://datasf.org/blog/unpacking-a-10-billion-budget/>

# ND BANKING SECTOR



- North Dakota has more banks and credit unions per capita than any other state. In fact, it has nearly *six times* as many local financial institutions per person as the country overall.
- Nationally— small and mid-sized banks account for 29 percent of deposits
- In North Dakota— they account for 83 percent of deposits
- (*Source: ILSR*)

# BRIEF HISTORY

- Arose from the radical agrarian populist movement of North Dakota's farmers who formed the Nonpartisan League in 1915.
- At the time, farmers were dependent on out-of-state grain milling companies, national railroads, and Minneapolis banks, all of which had been gouging farmers.
- In the 1918 elections, the League won both houses of the legislature. One of the first bills these new lawmakers passed created a publicly owned grain mill, the North Dakota Mill and Elevator, and a publicly owned bank, the Bank of North Dakota (BND)
- BND was established by legislative action in 1919 to "promote agriculture, commerce and industry in North Dakota."

# WHAT IS A PUBLIC BANK

- “For the purpose of encouraging and promoting agriculture, commerce and industry, **the state of North Dakota shall engage in the business of banking**, and for that purpose shall maintain a system of banking owned, controlled, and operated by it, under the name of the Bank of North Dakota. N.D. Cent. Code § 6-09-01 (1991).
- Business conducted as “The State of North Dakota, doing business as The Bank of North Dakota” N.D. Cent. Code § 6-09-26.
- “[all] state funds and funds of all state penal, educational and industrial institutions must be deposited in [the Bank of North Dakota].” N.D. Cent. Code § 6-09-07 (1991).

# ADMINISTRATIVE REQUIREMENTS

- Bank Charter - Explicit chartering authority in the ND constitution; Established by legislation; N.D. Cent. Code § 6-09 (1991).
- Insurance – all deposits are guaranteed by the state of North Dakota itself and not by the Federal Deposit Insurance Corporation (the “FDIC”). N.D. Cent. Code § 6-09-07 (1991).
  - As a result: not subject to federal laws and regulations governing operations, safety and soundness, permissible activities and similar requirements.
  - Instead, regulated by the North Dakota Department of Financial Institutions.
- Access to Federal Reserve – BND has a master account with the Federal Reserve Bank of Minneapolis
- Capitalization – initial bond issuance; launched in 1919 with \$2 million in capital (which would be \$325M today); today has more than \$270M of capital.
- Works closely with the North Dakota Department of Commerce, governor’s office, the agriculture commissioner’s office.

# OPERATIONAL REQUIREMENTS

- *"If you are going to have a state-owned bank, you have to staff it with bankers. If you staff it with economic developers you are going to have a very short-lived, very expensive experiment. Economic developers have never seen a deal they didn't like. We deal with that every day."*
- Eric Hardemeyer, CEO of BND
- *Source: Rob Garver, Reluctant Role Model, 121 Am. Banker, (Apr. 4, 2011), at 24.*

# OPERATIONAL REQUIREMENTS

- Board of Directors – Industrial Commission consisting of Governor, Attorney General, Agriculture Commissioner, N.D. Cent. Code § 6-09-02 (1991).
- Advisory Board– Seven members, shall include officers from commercial banks or credit unions, appointed by Governor, N.D. Cent. Code § 6-09-02.1 (1991).
- Human Capital– professional bankers under CEO Eric Hardemeyer
- Deposits: “[all] state funds and funds of all state penal, educational and industrial institutions must be deposited in [the Bank of North Dakota].” N.D. Cent. Code § 6-09-07 (1991).

# RESTRICTIONS ON PUBLIC FUNDS

- Collateralization of Deposits -- Exempt from requirement to seek collateral above FDIC-insured amount (cf. Cal Gov't Code § 53635.2)
- Limit on Deposits – Depository Institution - “[all] state funds and funds of all state penal, educational and industrial institutions must be deposited in [the Bank of North Dakota].” N.D. Cent. Code § 6-09-07 (1991).
- *Follow-up research required:*
  - Safety, Liquidity, Yield
  - Community Reinvestment Act Rating – N/A
  - Investment Restrictions

# RESTRICTIONS ON BANK OPERATIONS

- No Illegal Activity –
  - Unclear if BND will bank state-legal medical marijuana businesses.
  - However, it is regulated by the North Dakota Department of Financial Institutions, not the FDIC, and it already has a master account number with the Federal Reserve.
  - Therefore, cannabis banking may be less of a federal law barrier, and more a subject of state politics.
- Conflicts of Interest -- Not subject to restrictions on affiliate transactions, because no FDIC insurance.
- BND makes loans to governmental entities, including local governments.
- Commercial Banking – see next slide

# POLITICAL CONSIDERATIONS-- DAPL

- *"ND Emergency Committee approves \$4 million loan to cover costs related to DAPL protest*
- *In September, the state borrowed \$6 million from the Bank of North Dakota to cover costs, and now the State Emergency Commission has approved a plan to borrow \$4 million more."*
- *Source: <http://www.kfyrtv.com/content/news/ND-Emergency-Committee-approves-4-million-loan-to-cover-costs-related-to-DAPL-protest-399532501.html>*
- BND loan funds were used to pay for state and local police forces, whose methods of dealing with water protectors drew national controversy and were condemned as violent and overreaching.
- I do not have information about pipeline financing from BND.

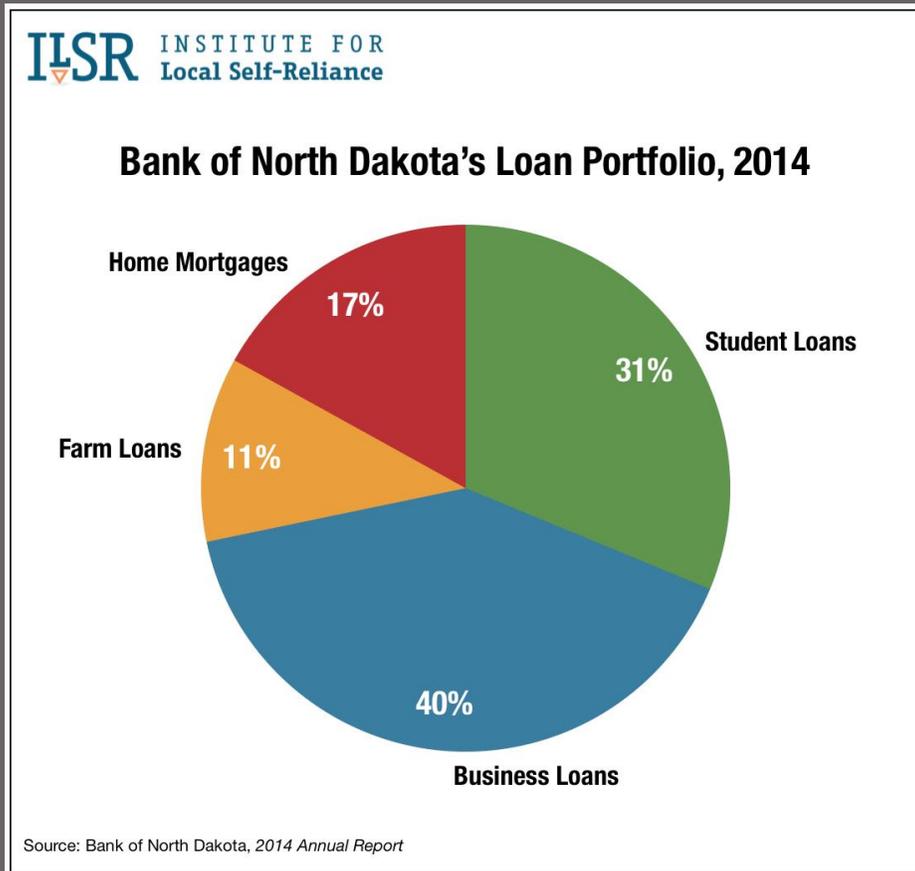
# RELATIONSHIP WITH COMMERCIAL BANKS

- *"Operating policies at the founding of the bank were put in place to ensure that the BND would not harm private sector banks, but rather partner with them. Because those were in the founding documents, it is now ingrained into how the bank does business."*
- Eric Hardemeyer, BND CEO
- *Source: Interview with Eric Hardemeyer, <https://www.minneapolisfed.org/publications/fedgazette/interview-with-eric-hardmeyer>*

# RETAIL SERVICES

- One location– 1200 Memorial High in Bismarck, North Dakota
  - You must visit this location to open a checking, savings account, or purchase a CD.
  - Only between 8-5pm Mon-Fri
- Basic checking and savings accounts – only available to North Dakota residents
  - (similar to a credit union's common bond)
- Bank policy not to compete with the private sector for retail deposits –
  - therefore no “convenience products” such as ATM cards, debit cards, credit cards or online bill pay.

# LOAN PORTFOLIO



- Total \$3.9Billion loan portfolio
- Business and farm loans are almost exclusively participation loans (\$2B)
- Student loans are direct to borrowers
- Home loans are a mix of direct and repurchased from local banks.

*Source: Institute for Local Self-Reliance*

# LOAN PORTFOLIO

- Mortgages (17% of the portfolio)
  - Majority are purchased from local banks who did not want to sell their home loan portfolios to Wells Fargo and other large banks– allowed local banks to move loans off their books, without handing the business to their competitors.
  - Limited direct residential mortgages– restricts eligibility to where private sector mortgages are not reasonably available.
- Student Loans – (30% of the portfolio)
  - Direct loans to customers
  - roughly 1/3 of loan portfolio
- *Source: Institute for Local Self-Reliance*

# SERVES AS A “MINI” FEDERAL RESERVE IN NORTH DAKOTA

- BND clears checks for both banks and credit unions
- Provides coin and currency and maintains an ACH (Automated Clearing House) system that allows local banks to offer direct deposit and automated payment services to their customers.
- Its Federal Funds program assists local banks with short-term liquidity needs and has a daily volume of over \$300 million
- *Source: Institute for Local Self-Reliance*

# SERVES AS A “MINI” FEDERAL RESERVE IN NORTH DAKOTA

- BND enables local banks to take deposits and manage funds for municipal and county governments.
- Local government collateral requirements are waived by a letter of credit from BND.
- After the 2008 financial crisis, BND helped local banks increase their capital ratios by buying loans and infusing them with new equity investment through its bank stock loan program.
- **Federal data show that North Dakota's local banks are healthier than their peers. They are more efficient, devote more of their resources to productive lending, and earn better returns on their assets than community banks nationally.**
- *Source: Institute for Local Self-Reliance*

# OPPORTUNITIES FOR STATE LAW REFORM

- Pass enabling legislation to create a public bank charter that would:
  - Change Insurance Requirement – allow alternative to FDIC insurance, such as backing of the State of California, or City of San Francisco
  - Eliminate Collateralization requirement for public banks (*see* Cal Gov't Code § 53652)
  - Eliminate limit on deposits requiring a public bank to have capital equal to or greater than government deposits.
- Amend Government Code Sections:
  - § 23007 prohibits a county from “giv[ing] or loan[ing] its credit to or in aid of any person or corporation.”
  - Corporate stock is not a permitted investment for “surplus funds” under Section 53601
- *But see* Non-bank alternatives proposed in the *Formation of Municipal Bank by San Francisco* memorandum by Arent Fox.