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Dear Honorable Chair Jeanette White and Members of the Senate Government Operations Committee,

In anticipation of providing verbal testimony in support of S 204, I thought it best to share with you and the committee some recent legislative developments involving the Bank of North Dakota (BND), the nation's only state-owned bank. Interestingly, the debate in Vermont about the role of the state government in shaping the state's economy very similar to the debate that continues to take place in North Dakota. I've chosen to bring forward some examples because, notably, the North Dakota state legislature repeatedly decides to expand the role of the Bank of North Dakota to better serve their constituents. In each of the three examples in the accompanying attachments, the legislators chose to use the Bank of North Dakota as a mechanism to better implement policy decisions.

First, in 2011, North Dakota legislators used BND as a way to cushion the impact of the widespread flooding that occurred during that summer. Three-month mortgage and student loan payment deferments were provided by BND to the people who needed and requested this kind of support. Rebuilding loans as low as 1% fixed rate per annum for up to 20 years were also provided. These loans included a mandatory deferral of payments for the first twenty four months.

Second, the ND state legislature used BND to provide \$50M to partially fund a new water pipeline in the western part of North Dakota. This is an excellent example of financing infrastructure by using a public bank. The debate is perfectly captured in the Associated Press article that is attached.

Finally, the North Dakota Bankers Association worked with the state legislature to direct the Bank of North Dakota *into* the home mortgage origination business in order to offset the increased compliance burden that community banks were shouldering as a result of the Dodd Frank legislation. What is most interesting about this situation is that private banks used the state-owned bank as a way to ensure that they could better manage the risk of working in an increasingly federally-regulated market. This shows how a state government, acting in concert with its own depository bank, can blunt the (oftentimes) heavy hand of federal authority.

North Dakota continues to demonstrate how a state can more effectively direct its own economic destiny with a state-owned depository bank. It is my hope that Vermont chooses the same path forward.

Sincerely,

Marc Armstrong
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Bank of North Dakota (BND) Role in 2011 Flood Recovery Effort

Documented in [2011 Flood Report: Response and Recovery](#), November 2011:

BND Business response

- Provided North Dakota Lenders information on the Business Disaster Relief Loan Program on June 15, 2011
- Participating in the Bismarck-Mandan Lenders Flood Group, which focuses on providing lenders the information needed to assist customers and to adequately reserves for losses that may occur in loan portfolios
- Participating, and instrumental in the formation of, the Minot Area Lenders Task Force, which provides information to lenders and identifies gaps in federal programs

BND Residential response

- Sent homeowner surveys to all flood-related residential mortgage customers on June 28, 2011, and, upon request, provided up to three months of payment deferral (Marc Armstrong NOTE: this was six months in response to 1997 Red River Flood)
- Developed a Mortgage Payment Calculator to compare alternatives for financing options for home rehab or new home purchase available at www.bankbnd.nd.gov and www.disasterinfo.com
- Participating in the Minot Flood Recovery Housing Committee
- Coordinating with the Governor's Office on options for homeowners to address gaps not met by federal programs; some options may require legislative approval

BND General Response

- Announced that student loan borrowers affected by the flood could request a payment deferral of up to three months
- Loaned millions of dollars to state agencies to help in flood recovery efforts

Subsequent to the release of this report, several [Funding Components Approved](#) in ND Special Session

The Legislative Assembly in North Dakota held a special session the week of November 7, 2011, and one of the bills approved during this session includes SB 2371 which includes funding for several programs offered by the State of North Dakota critical to disaster recovery and energy-impacted western North Dakota. The following is a summary of SB 2371:

Rebuilders Loan Program. This program will be offered through the Bank of North Dakota to residents affected by a presidentially declared disaster in the state for the purpose of the resident rebuilding the



resident's flood-damaged home or purchasing a new home in the disaster-impacted community. A total of \$30 million has been appropriated to this program with an additional \$20 million as a contingent appropriation.

- The program will be offered via a local lender.
- Qualifying counties include: Barnes, Benson, Burleigh, McHenry, Morton, Ramsey, Renville, Richland, Spirit Lake Reservation, and Ward
- Loans may only be made to a homeowner residing in this state whose home was granted a reduction in 2011 in true and full valuation from the pre-flood value or by abatement for flood-damaged property.
- Initial loan may not exceed \$30,000 or the actual amount of documented damage not paid by flood insurance, whichever is less.
- Fixed rate of one percent for no more than 20 years. All payments must be deferred for the first 24 months.
- Application deadline is no later than September 30, 2012.
- If property is subsequently sold prior to complete repayment, the balance of the loan must be paid in full upon the closing of the sale.

Housing Incentive Fund. The aggregate amount of tax credits allowed to all eligible contributors was increased from \$4 to \$15 million.

- Housing Incentive Fund was created as a special revolving fund at the Bank of North Dakota managed in conjunction with the Housing Finance Agency.
- At least 25 percent of the fund must be used to assist developing communities with a population of not more than 10,000 people to address an unmet housing need or alleviate a housing shortage.
- At least 50 percent of the fund must be used to benefit households with incomes at not more than 50 percent of the area median income.
- Assistance from the fund may be used solely for:
 - o New construction, rehabilitation, or acquisition of a multifamily housing project;
 - o Gap assistance, matching funds, and accessibility improvements;
 - o Assistance that does not exceed the amount necessary to qualify for a loan using underwriting standards acceptable for secondary market financing or to make the project feasible; and
 - o Rental assistance, emergency assistance, or targeted supportive services designated to prevent homelessness.
- Eligible recipients include units of local, state, and tribal government, local and tribal housing authorities, community action agencies, regional planning councils, and nonprofit organizations and for-profit developers of multifamily housing. Individuals may not receive direct assistance from the fund.



Bank of North Dakota and Example of Infrastructure Lending

Discussion of the pros/cons of using the Bank of North Dakota to fund a large infrastructure project:

[ND lawmakers approve plan for pipeline project](#)

AP

By **TREVOR BORN** - Associated Press April 27, 2011 8:34 AM

Lawmakers on Tuesday approved using a patchwork of loans to finance a \$150 million water pipeline project that would supply western North Dakota's oil industry and a number of cities in the region.

House members approved the bill 81-12 on Tuesday, followed by passage in the Senate, 39-8. It now goes to Gov. Jack Dalrymple.

The Western Area Water Supply project will take water from the Missouri River near Williston and pipe it into rural western North Dakota.

Supporters say it will take advantage of the oil industry's insatiable demand for water to finance a pipeline network that can supply quality drinking water to rural areas. The proposal's critics say the state is shouldering the financing risk for the project and that it would compete against private water suppliers. Construction could begin as early as July.

"This is going to position northwest North Dakota with good, usable water for the next 40 to 50 years," said Rep. George Keiser, R-Bismarck. "That's an amazing accomplishment out of one legislative session."

Keiser headed a panel of House and Senate negotiators that met 19 times before settling on a final version of the legislation Tuesday.

Their plan says the state-run Bank of North Dakota will loan the project \$50 million and be paid back first. The state's general treasury will lend \$25 million, and a separate trust fund will supply another \$35 million.

The legislation suggests that the 2013 Legislature approve another \$40 million loan to finish the project. The North Dakota House had favored selling state-guaranteed bonds to finance the project, which



supporters said would make trust fund money available for other projects. Opponents of that approach disliked issuing debt for the pipeline.

"It gets the needs of that area taken care of in a timely manner," said Sen. Rich Wardner, R-Dickinson. "By going through the bank and the general fund, we're speeding things up and lowering the cost, compared to bonds."

The bill creates an 11-member board to operate the pipeline. If the project defaults on its loans, the state Water Commission would take over its operations and be responsible for repaying its debts.

Robert Harms, a lobbyist who represents independent water companies, said the state financing money gives the project an unfair advantage over private water sellers that have invested money in their own supply network for oil companies.

"It's a terrible public policy choice long-term," Harms said. "First of all, if we use that that model, why shouldn't we use it to meet infrastructure needs in other areas, like roads? Number two, it's putting the public sector in competition with private enterprise. That's a problem."

Sen. Margaret Sitte, R-Bismarck, compared the plan to the federal takeover of General Motors and said the \$150 million price tag is too large.

"This is just so above and beyond anything we've ever considered before, and I really don't think that it should be the state's business to be looking at making money off the oil industry by selling water," Sitte said. "I really believe that we have been suckered here."

The project will expand the Williston water treatment plan to handle 21 million gallons per day, up from the current capacity of 10 million gallons. The pipeline will extend to Grenora to the northwest, Ray to the northeast and Alexander and Watford City to the south.

Smaller lines will bring water to individual properties that don't currently have access to river water, said David Johnson, the project's chief engineer. Those pipes should be carrying water by the end of 2012, he said.

"There will be several benefits, including getting more water to the oil industry that is helping our state and reducing the trucks on the road," Johnson said. "But the biggest thing is getting people quality water who have never had quality water before."



Bank of North Dakota Residential Mortgage Loan Program

SB 2064 states that the Bank may establish a residential mortgage loan program under which **the Bank may originate residential mortgages if private sector mortgage loan services are not reasonably available.** Under this program a local financial institution or credit union may assist the Bank in taking a loan application, gathering required documents, ordering required legal documents, and maintaining contact with the borrower.

From Senate Government and Veterans Affairs Committee [hearing minutes](#), January 10, 2013 -- Rick Clayburgh, President and CEO, North Dakota Bankers Association: We are here in support of removing the training wheels from this program. Our association is in full support. I want to talk about a couple of historic issues on the program. As a trade association, we have been looking at the issues of residential mortgages in North Dakota for about five years working closely with the Bank of North Dakota, our members, and other organizations that help provide residential mortgage programs in the state. **Over the past years because of the regulatory burdens our banks face by the passage of Dodd Frank, and now the creation of the Consumer Financial Protection Bureau; it has become very prohibitive for a number of our banks to provide residential mortgage services anymore. We two years ago worked both with the Independent Community Bankers Association, and our Association and the Bank of North Dakota to come up with this idea in this program to help the bank provide services into the parts of the state that really residential mortgaging has seized up.** We have a number of our banks that have terminated doing mortgage loans in their communities. They have stopped the process because they cannot afford to be written up by their regulator.

From the Economic Development Association of North Dakota, [Legislative Update](#), March 22, 2013 -- SB 2064 addresses the residential mortgage loan program. Eric Hardmeyer, BND, testified that there is a need for this to be a permanent program to assist banks dealing with the regulatory burden. **The private sector has asked for the help and the BND is able to assist with the mortgage origination. It has been very successful in the rural communities. The pilot was for \$8 million with a \$200,000 loan amount and allowance for refinancing. The current legislation removes the \$8 million cap and and \$200,000 maximum loan amount.** Rick Clayburgh, ND Bankers Association, testified in support of the bill. They feel the support to smaller banks is necessary because they are not adequately able to deal with residential mortgage lending. John Brown, Independent Community Banks of North Dakota, also testified in support. EDND supports SB 2064. The legislation received a 14-0-1 DO PASS recommendation from the committee.

On March 27, 2013, SB 2064 was passed in the Senate, yeas 86 nays 7. [Signed by ND Governor](#) on April 3, 2013.