



Dispelling the Myth of a Public Bank

As the State and localities consider proposals for a public bank in New York, the New York Bankers Association (NYBA)¹ respectfully encourages lawmakers to weigh whether any prospective benefits of a public bank will outweigh the many risks, including the prospect of precarious loan making with little capitalization, a lack of proper FDIC insurance and regulatory oversight, a scattered business focus, and the potential for external influence on lending and other decisions. A public bank would also devastate our community banks in New York, whose operations are dependent on the municipal funds that would necessarily be extracted to create a public bank, thus leading to a loss of business growth, jobs and tax revenue from these vitally important institutions.

While the New York Bankers Association recognizes that low-income communities and communities of color were hit the hardest by the pandemic, we believe a public bank is not the answer and would in fact create false hope for a quick solution that could actually be long, drawn out, untested and unpredictable. NYBA is committed to working with legislators and interested stakeholders in finding workable and practical solutions to help all of our communities recover and rebuild equitably and to providing improved and inclusive access to the financial system.

Advocates for a public bank often argue that such a bank would be a quick fix for solving issues resulting from New York's devastated economy post pandemic. However, this unrealistic time frame and expectation does not take into account the complexities of starting, capitalizing and overseeing of a bank of any kind. As the Los Angeles Times recently pointed out, "San Francisco recently studied three models for a public bank. The version that would have provided the most services would have required \$119 million in start-up funding and \$2.2 billion in public subsidies until the bank could break even — in 56 years. Few public agencies have the budget for such huge upfront costs or the ability to wait decades for a bank to become self-sustaining."²

Advocates also often point to the only public bank operating in the U.S., the Bank of North Dakota, which was formed a century ago and serves a limited purpose. It's the only one for a reason: nearly two dozen other public banks have closed or failed over the last century due to the realization of the risks inherent in these proposals. Furthermore, several states and municipalities have spent millions in taxpayer dollars to study various public bank proposals and all have reached the same conclusion: banking is a complex, expensive and extremely risky endeavor for a government entity to take on and realistically operate.

In an effort to provide context and answers to the many questions raised about public banks, NYBA is providing the below talking points on the various proposals currently under consideration.

¹ NYBA is comprised of the smaller community, mid-size regional, and large banks across every region of New York State. Together NYBA members employ nearly 200,000 New Yorkers, safeguard \$2 trillion in deposits, and extend nearly \$70 billion in home and small business loans. NYBA members also support their communities through an estimated \$200 million in community donations and 500,000 employee volunteer hours.

² See: <https://www.latimes.com/opinion/editorials/la-ed-public-bank-bill-20190527-story.html>

Public Bank Talking Points

Alternative Programs that Empower Individuals & Communities through Access to Banking

- NYS has existing programs aimed at providing access to banking services, and these should be expanded and improved to better serve the needs of communities by providing access to banking services, including basic checking & savings accounts.
- One example is the Banking Development District (BDD) Program overseen by the NYS Department of Financial Services. It promotes banking in communities that are not served by a physical branch within a set geographic area. It is much less expensive for New York to improve this program and make participation more attractive to financial institutions seeking to extend operations into underserved communities.
- New York could also increase Community Development Financial Institutions (CDFI) funding and expand accessibility of CDFI funds. The CDFI program is one example of a successful public-private partnership that boosts economic growth in distressed communities by offering affordable lending options to individuals and businesses within those communities.
- Another alternative is increased funding of Minority Depository Institutions (MDIs), as well as other measures to promote their growth. The Federal Government defines an MDI as any depository institution where 51% or more of the stock is owned by one or more socially and economically disadvantaged individuals, recognized as Black American, Asian American, Hispanic American, or Native American. A second way an institution can qualify as an MDI is if the community it serves is predominantly minority and minorities occupy a majority of the seats on its Board of Directors.

Capitalizing a Public Bank Would Drain State & Municipal Budgets

- Bank capital is a storage of cash and safe assets that banks hold as a buffer. Banks are required to hold certain amounts of capital in order to protect consumers. It plays a critical role in the safety and soundness of individual banks and the financial system as a whole. Since 2008, banks are required to hold a certain amount of capital in order to protect consumers in the case of failure. In the case of entrusting and securing public taxpayer monies that would be utilized by a public bank, regulators and experts agree that even more capitalization should be required.
- Feasibility studies consistently find that capitalizing a public bank demands a burdensome fiscal commitment financed either through appropriations or bonding
- Capitalization costs skyrocket as the ambition and variety of its proposed goals increases
- Conservative projections of minimum capitalization costs frequently equal to a significant share of the state or municipality's annual budget³:

³ Capitalization data taken from Public Bank Feasibility Study Report, *Government of the District of Columbia* (May 29, 2020) (available at <https://static1.squarespace.com/static/528921fce4b089ab61d013d3/t/5edae1469a897a32cd113837/1591402837127/>)

- Massachusetts's 2011 feasibility study: 12.5% of the state's budget
- Oakland, CA 2016: 42% of the municipal budget
- Santa Fe, NM 2016: 12.2% of municipal budget
- Vermont 2013: 8% of the state's budget
- California Cannabis Bank 2017:
 - \$1 billion, 0.5% of the state's budget
 - Just to serve a single industry
- Washington State 2010:
 - \$100 million, 0.33% of the state's budget
 - Singular goal would have been to increase small business lending
- The costs of capitalizing a public bank in New York are completely unknown.

Other Feasibility Problems

- Every credible study shows there are significant operating costs at startup, in addition to capitalization.⁴
- These startup costs, in the millions or even billions (depending on the purpose(s) proposed for the bank), would be funded by taxpayers and consumers, who would also be required to pay should the bank fail to manage its risks properly.
- Seattle's 2018 feasibility study is typical in showing that a public bank would lose money for years after its founding.
- The California Cannabis Bank study projected losses for 12 years, with the state waiting between 25-30 years to realize dividends.
- A public bank could take years to establish. The California Cannabis Bank study projected 6, but potentially as many as 9 years, and it is notable that this particular bank would only be for the sole purpose of cannabis banking, with the ultimate conclusion that such a bank was not legally feasible under federal law.
- The majority of government-commissioned feasibility studies examined by the San Francisco Treasurer in 2019 recommended against establishing a public bank.⁵
 - Instead, they recommend targeted alternative loan and hybrid funding vehicles that entail neither the costs nor the risks of a public bank but are more likely to achieve the desired objectives
 - Others, such as the Seattle study, found that a public bank was feasible but recommended curbs on the bank's activity and stressed the trade-offs involved.
 - No public bank has resulted from ANY of the feasibility studies they examined.
- New York has not undertaken a public bank feasibility study to calculate the costs of a public bank or assess the risks to public funds.

[Public+Bank+Feasibility+Study+%28FINAL%29.pdf](#)). Percentages calculated using budget totals from the year the feasibility study was released.

⁴ See: *The Study of the Studies: A comprehensive review of state, municipal, city, and public banking*, Office of the State Treasurer, Washington State; (October 2018) at: <https://tre.wa.gov/wp-content/uploads/Public-Banking-Report-Study-of-the-Studies.pdf>

⁵ Molly Cohen, Memorandum re: Public Banking in the United States – A Literature Review, Office of the Treasurer of the City & County of San Francisco (May 29, 2019).

- Any public bank will likely take municipal deposits, and the state has not studied how that would affect the solvency of commercial/community banks that currently handle those deposits.

Problems with the Federal Reserve and the FDIC

- The FDIC (Federal Deposit Insurance Corporation) is an independent agency of the United States government that protects you against the loss of your insured deposits if an FDIC-insured bank or savings association fails. FDIC insurance is backed by the full faith and credit of the United States government. Nearly every bank and credit union in the United States insures accounts and protects consumers through the FDIC.
- Public-bank proponents do not know if the bank could protect its deposits through the FDIC, exposing both its customers and the state treasury to unacceptable risks
- The Federal Reserve System, often referred to as the Federal Reserve or simply "the Fed," is the central bank of the United States. It was created by Congress to provide the nation with a safer, more flexible, and more stable monetary and financial system. In addition to its regulatory oversight role, it plays a major role in operating and overseeing the nation's payments systems.
- It is unclear whether a public bank would have access to the Federal Reserve payment system? And if not, what additional problems and risks does it create for a public bank? New York has not studied the issue.
- The Federal Reserve could impose increased capitalization requirements on a new public bank because of any risks inherent in its structure or goals.
 - The California Cannabis Bank study reported that the Federal Reserve Bank of San Francisco required a leverage capital ratio “well over 10% for an extended period of time due to perceived risks associated with the business model.”

The Bank of North Dakota (BND)

- The Bank of North Dakota, the only surviving public bank from the last century, was capitalized by \$2 million in 1919, in a vastly different economic and political circumstance.
- Equivalent capitalization in the modern economy would cost \$325 million according to a 2011 Federal Reserve study.⁶ A decade later, the capitalization costs are undoubtedly even higher.
- Two-dozen other public banks have been closed or shut down in the past 100 years.
- Many of those public banks ended in expensive failures that posed great risk to public funds, including:
 - The Puerto Rico Development Bank. It liquidated in 2017 in an attempt to repay its \$5 billion debt.

⁶ Kodrzycki, Yolanda K. and Tal Elmatad. “The Bank of North Dakota: A model for Massachusetts and other states?” *New England Public Policy Center, Federal Reserve Bank of Boston* (May 2011), Pg. 19.

- The Farmer’s Bank of Delaware, which sold to a commercial bank in 1981 to prevent an imminent collapse. Its downfall involved political pressure and several bankers as well as a Delaware official were indicted.
- The BND is a partnership bank, and (except for student loans) it originates all of its lending through commercial banks.
- The BND does not offer ATMs, debit cards or branch banks in communities.
- The BND intentionally limits its competition with commercial banks.

Cannabis Banking

- A public bank is an impractical solution to the federal prohibition on banks handling deposits and creating loans for the cannabis industry.
- While the federal ban remains in effect there is no reason to believe that banking regulators or law enforcement authorities would give a pass to a public bank that began accepting cannabis industry deposits, which are still branded as illicit proceeds.
- The California Cannabis Bank study examined this issue directly and found it would create “unacceptable degrees of legal, schedule, mission and financial risks.”
 - The study authors estimated a cannabis bank would need a 40% capital buffer. The Bank of North Dakota—the only successful public bank in the US—has a capital buffer of 21%.⁷
 - The bank would surely be unable to access the Federal Reserve System or obtain FDIC insurance.
 - It wouldn’t be able to conduct interbank transactions either, even though commercial banks routinely use such arrangements to create liquidity and manage risk.
 - It could take almost a decade to establish and would hemorrhage money before it begins accepting deposits.
 - Meanwhile, the study authors have said that the problem is likely to resolve without state intervention, either because the federal ban ends, or commercial banks find innovative ways to enter the market and manage its risks.⁸
- The federal ban could end any day now. The Safe Banking Act moving through Congress would allow commercial banks to work with cannabis businesses in states where the drug is legalized.
 - It is likely to become law soon. The bill passed by a voice vote in the House of Representatives in April 2021.
 - After the ban ends, a cannabis bank is likely to fail because it will have to compete with commercial banks.

⁷ Laura Alix, “Public Bank Isn’t the Answer for California’s Pot Industry: Report” *American Banker* (Dec. 28, 2018) (available at: <https://www.americanbanker.com/news/public-bank-isnt-the-answer-for-californias-marijuana-industry-report?tag=0000015c-c71f-dc44-a57c-e75fca7c0000>)

⁸ Id. (quoting William Roetzheim, CEO of Level 4 Ventures, “‘We are convinced . . . that even if we don’t do anything at all, banks will gradually enter this industry in California and the problem will gradually go away.’”)