Minutes of a Special Meeting of the Industrial Commission of North Dakota

Held on January 8th, 2025, beginning at 4:00 p.m.

Governor's Conference Room – State Capitol

Present: Governor Kelly Armstrong, Chairman

Attorney General Drew H. Wrigley

Agriculture Commissioner Doug Goehring

Also Present: This meeting was open through Microsoft Teams so not all attendees are known.

Agency representatives joined various portions of the meeting.

Governor Armstrong called the meeting of the Industrial Commission to order at approximately 4:05 p.m.

Ms. Karen Tyler took roll call, and Governor Armstrong, Commissioner Goehring, and Attorney General Wrigley were present.

Governor Armstrong invited the room to stand and join the Commission in saying the Pledge of Allegiance.

BANK OF NORTH DAKOTA

Mr. Don Morgan, Mr. Rob Pfennig, and Mr. Kelvin Hullet presented for consideration of approval the new BND Capital Policy with Stress Testing and Dividend Recommendations.

The new formalized capital policy the Bank of North Dakota includes a capital plan, capital buffers, annual stress test and dividend recommendation, and must be reviewed and approved on an annual basis by the Industrial Commission. The Capital Policy is available on the bank's website.

BND
25-27 Dividend Recommendation

	Biennium 23-25 Actual	Biennium 25-27 Proposed
Prior 2 Calendar Years Income	$ 335,321	$ 393,187
***Potential Dividend to Gen. Fund**	$ 140,000	$ 140,000
***Potential Dividends Buy Down**	$ 60,000	$ 60,000
***Potential Dividends Other**	$ 96,100	$ 12,800
Total Capital Dividends % to Earnings	88%	54%

General Fund	140,000	140,000

Interest Rate Buy Downs	60,000	60,000

Skilled Workforce/Dual Credit	8,300	8,300
UND SBDC	1,500	1,500
AGPUC	3,000	3,000
IRLF	52,000	
SIRN	20,000	
Disaster		
R-Wish	10,000	
FHLB Matching Housing	1,300	
New Program		

Total Capital Dividends	**296,100**	**212,800**

The dividend amounts (shown above) are the maximal calculated amounts potentially available that the range of required capital per the Capital Policy, Capital Buffers, and Capital Stress Test would indicate are available for the proposed biennium. These potential amounts, per the analysis, would maintain sufficient capital levels in the Bank for the period to accomplish strategic objectives, appropriately mitigate enterprise risk, generally continue to operate in a safe and sound manner, and to account for reasonably assumed unknowns and/or contingent situations the Bank may face in the upcoming period.

The categories of potential dividends are proposals and are subject to adjustment by the Board. Available alternatives to the "Potential Dividend to Gen. Fund" may include designating all or portions of this category to State programs aligned with the core mission of the Bank.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission, as the governing body for the Bank of North Dakota, approve the bank's capital policy to ensure the safety and soundness of the bank, ensure the bank can meet its mission and objectives, is in full compliance with regulatory requirements and industry standards, and that such policy will require an annual review and approval by the Commission of the bank's capital plan, capital buffers, stress test and recommended dividend; that capital dividends will be determined based upon the previous ending two calendar years income prior to the start of a new biennium, that the Industrial Commission approve a recommended dividend for the 2025-2027 biennium of up to $212,800,000 which includes:

- **$140,000,000 for the state's general fund or legislatively directed use**
- **$60,000,000 for the PACE buy down programs**
- **$12,800,000 for other programs such as APUC, SBDC and skilled workforce/dual credit**

and that information about the approval of this capital policy and recommended dividend be provided to legislative leadership.

On a roll call vote, Governor Armstrong, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

The Industrial Commission sent a letter to Legislative Leadership that read as follows:

January 8, 2025

Dear Senator Hogue, Representative Lefor, Senator Bekkedahl, and Representative Vigesaa,

At the January 8, 2025, Industrial Commission meeting the Commission adopted a formalized capital policy for the Bank of North Dakota which includes a capital plan, capital buffers, annual stress test and dividend recommendation. The purpose of this letter is to provide you with background on the need for the policy and details regarding its construct.

Background

Bank of North Dakota's mission is to deliver quality, sound financial services that promote agriculture, commerce, and industry in North Dakota. Today, BND holds and administers over $10 Billion in assets for the state and in coordination with financial institutions in North Dakota. As the governing body for the bank, the Industrial Commission undertook an effort in the last year to create a formal capital policy for the institution.

This policy is structured to achieve the essential functions served by appropriate capital levels:

1. **Ability to Absorb Losses**: Capital allows institutions to continue operating as going concerns during periods when operating losses or other adverse financial results are experienced.

2. **Promoting Public Confidence**: Capital provides a measure of assurance to the public that an institution will continue to provide financial services even when losses have been incurred or the bank is otherwise under stress, thereby helping to maintain confidence in the banking system and minimize liquidity concerns.

3. **Restricting Excessive Asset Growth**: Capital, along with minimum capital ratio standards, can act as a constraint on excessive expansion by requiring that asset growth be funded by a commensurate amount of capital.

4. **Protecting Depositors and the State**: BND is not an FDIC insured institution. With a significant risk of loss carried by the state should the institution fail, appropriate capital levels help to minimize the potential for moral hazard and promote safe and sound banking practices.

The bank is mission driven while also managing risk for the state primarily related to liquidity risk, credit risk, and interest rate risk. Notwithstanding these three primary risk categories, the bank takes an enterprise-wide approach to risk management, and this forms the basis of the new capital policy.

It is the goal of the bank to achieve a stable total return to the state while delivering on its mission. The bank has and will continue to take a conservative approach toward its lending and investing activities, prudently reserve for potential loan loss, remain prepared for potential state liquidity needs, and continue to manage risk through a robust and evolving enterprise risk management system.

Purpose of the Capital Policy

The overall purpose of the bank's new capital policy is to ensure the safety and soundness of the institution, ensure it can meet its mission and objectives, and is aligned with industry best practices. A strong capital policy benefits the bank and the state by providing a framework for achieving the bank's mission and strategic plan objectives consistent with maintaining regulatory guidance and providing for the protection of the bank's depositors and integrity of its operations.

The development of this capital policy was driven by the following factors:

1. The size and complexity of the bank's operations has reached a critical juncture where a robust, dynamic, industry best practice capital policy is prudent for continued safe and sound operations.

2. Upon conclusion of its biennial examination of the bank, the Department of Financial Institutions recommended the Industrial Commission develop a formal risk-based capital policy.

3. HB 1014 passed by the 68th Legislative Assembly included language in section 28 to "consider developing procedures or adopting legislative rules for introducing bills and amendments related to the use of Bank of North Dakota profits".

4. The need to create a dividend policy that provides a level of funding for use by the Legislature while maintaining appropriate capital levels to mitigate risk and comply with industry best practices and continued safe and sound operations.

Bank management, the bank's advisory board, and the Industrial Commission as the bank's board of directors, establish policies, procedures, and controls that mitigate material risks which include economic, interest rate, credit, liquidity, competitive, financial, operational, cybersecurity, and reputational risk. The bank must be prepared to respond quickly to unforeseen major events such as interest rate shock environments, natural disasters, economic disruptions, and state budget deficits.

Recommended Capital Dividend for the 2025-2027 Biennium

Based on all the factors accounted for in the new capital policy, together with capital buffers and capital stress testing, the Industrial Commission has approved a recommended dividend of up to $212,800,000 for the 2025-2027 biennium. This is 54% of the bank's 2023 and 2024 calendar year earnings. This recommended dividend includes:

- $140,000,000 for the state's general fund or legislatively directed use.
- $60,000,000 for the PACE buy down programs.
- $12,800,000 for other programs such as APUC, SBDC and skilled workforce/dual credit.

If legislative leadership determines that the recommended dividend from the bank is insufficient, we request the opportunity to discuss any proposed change.

Lines of Credit and Bank Deposits

The Legislature has historically utilized lines of credit from the bank to assist with cash management and to provide funding certainty. Current available lines of credit with the bank that have been directed by the legislature total approximately $428,000,000, with a total outstanding balance of $33,401,000. Similar to dividends, asset allocations and unfunded commitments affect the bank's dynamic capital range. Complementary to the capital policy framework we are establishing, the bank analyzes lines of credit and forecasts expected or likely usage, probability of funding, and the overall impact to potential capital levels and ranges. Based on this analysis, for the 2025-2027 biennium, the Industrial Commission recommends that new legislatively directed lines of credit not exceed $400,000,000 and requests that any new lines of credit have an identified repayment source.

In addition, the Commission requests the opportunity to discuss with legislative leadership any legislation that could materially impact the bank's deposit base.

ND TRANSMISSION AUTHORITY

Mr. Jordan Kannianen, Deputy Director of the Industrial Commission, gave a report on NDTA studies and updates to be presented at the joint meeting of the House and Senate Energy and Natural Resources Committees on January 9, 2025.

The main terminology are the 3 R's: Resource Adequacy, Operational Reliability, and Grid Resilience.

The following are Grid Resilience Report Risks and Threats:

- Extreme weather events
- Supply chain interruptions
- Cyberattacks
- Aging infrastructure
- Resource Adequacy issues

The following are Grid Resilience Report Recommendations:

- Strengthen resource adequacy
- Enhance infrastructure resilience
- Centralize supply chain management
- Implement cybersecurity measures
- Prioritize Maintenance of aging infrastructure
- Establish continuous resilience assessment

The following are Utilities' Actions:

- Supply chain management
    - Utilities are good neighbors and share resources in emergency situations
- Continuous resilience assessments
- Cybersecurity
    - Utilities are held to NERC and FERC standards
- Modernizing aging infrastructure
    - Replacing analog meters and equipment with digital
    - Replacing old poles and cables
    - IIJA grants beginning to help

Proposed EPA Rules and Effects:

- Mercury and Air Toxins Standards (MATS) Impact Study
    - Decreases allowed mercury content from 1 part/billion to 1 part/10-billion
    - MISO would not be able to meet peak demand by 2029
- Greenhouse Gas Regulation Impact Study
    - Sets new standards for gas-fired combustion turbines at power plants
    - MISO would not be able to meet peak demand by 2028
    - SPP would not be able to met peak demand by 2030

Full reports are available upon request.

With no further business, Governor Armstrong adjourned the special meeting of the Industrial Commission at 4:55 p.m.

North Dakota Industrial Commission

Brenna Jessen, Recording Secretary

Jordan Kannianen, Deputy Executive Director

Karen Tyler, Interim Executive Director