

LFC Requester:

Brendon Gray

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: February 20, 2025

Check all that apply:

Bill Number: HB 130

Original Correction
Amendment Substitute

Sponsor: Rep. Patricia Roybal
Caballero, Sen. Jeff Steinborn
and Rep. Joseph Franklin
Hernandez

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing

Analysis: AAG Zachary Shandler

Short Title: Public Banking Act

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: HB 130 would create a public bank in New Mexico. This public bank would be managed by a Board of Directors (“Board”) consisting of appointed members and government representatives. The public bank would have authority under the Act to make purchases, sales, sales, exchanges, investments of enumerated financial instruments.

Section 1: Establishes the Short Title of the Act as the “Public Banking Act.”

Section 2: Defines the various terms used in the Act.

Section 3: Establishes the “public bank of New Mexico,” a “public body politic and corporate, constituting a governmental instrumentality.” This section also states that the bank shall be governed by a board of directors, delineates the manner in which the board of directors are to be appointed, provides guidelines regarding what to if a vacancy occurs among the directors, and provides guidance regarding the frequency and logistics of board of directors’ meetings.

Section 4: Details the duties, qualifications, and appointment of the Chief Executive Officer and Chief Risk Officer.

Section 5: Describes the acts the bank may and may not undertake, and the acts the bank shall and shall not undertake. The section also states that the Chief Executive Officer and the board of directors are trustees of all funds under their control.

Section 6: Delineates circumstances that constitute a conflict of interest and states that if any director, officer, or employee of the bank has an interest in any contract to which the bank is (of will be) a party, the interest shall be disclosed and the individual with the interest shall not participate in any action by the bank involving that conflict. If an individual with a conflict of interest participates in any transaction that involves the conflict or fails to notify the bank of the conflict, the individual is guilty of a misdemeanor.

Section 7: Creates the “state banking fund,” a non-reverting fund within the state treasury, which consists of appropriations, capital, retained earnings, deposits and investment income of the fund. The section also specifies the monies that shall be deposited in the fund. This section also states that, until the bank is chartered, the state treasurer shall administrate the fund, and the money in the fund is to be appropriated to the state treasurer to be used for the purposes of carrying out the provisions of the Act. The section then details what is to be done with the fund once the bank

becomes chartered pursuant to federal law.

Section 8: This section would create a new section of NMSA 1978, Section 6-10-27.1, to effectively make the provisions of Chapter 6, Article 10 inapplicable to the public bank of New Mexico.

Section 9: The bill states that \$50,000,000 are appropriated from the general fund to the state banking fund for expenditure in the 2026 fiscal year, and that no more than \$4,000,000 shall be used for the purpose of establishing and chartering the public bank of New Mexico and developing the bank's lending programs.

Section 10: This section appropriates an additional \$60,000,000 from the general fund to the public bank to be deposited in an account with the bank. The purpose of this appropriation is not detailed. Any balance remaining in the fund which was derived from this appropriation shall not revert to the general fund at the end of the fiscal year.

Section 11: Sets the effective date of the provisions of Sections 1-9 to July 1, 2025, and states that provision 10 shall become effective upon the bank's incorporation and the bank's receipt of its formal charter.

FISCAL IMPLICATIONS

None to this office.

SIGNIFICANT ISSUES

The Bank of North Dakota is the only state-owned bank in the country. It partners with local banks and credit unions to make loans to businesses, and these relationships have been developed over the last century.

Critics of public banking say that it poses risks to taxpayers and that it would likely be too expensive. Public banks may exhaust resources that could be used for infrastructure or community development projects. Accounts with low balances would be more costly for banks because they provide less money to loan out and collect interest on.

PERFORMANCE IMPLICATIONS

The New Mexico Department of Justice ("NMDOJ") provides legal counsel for New Mexico boards and commissions that do not have budget or authority to retain staff legal counsel. Because HB 130 makes no provision for retention of counsel by the Board, the NMDOJ may be asked to fulfill its legal needs.

ADMINISTRATIVE IMPLICATIONS

None to this office.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.