

LFC Requester:	Hilla, Emily
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 01/30/2025 *Check all that apply:*
Bill Number: HB130 Original Correction
 Amendment Substitute

Sponsor: Patricia Royball Caballero, Jeff Steinborn **Agency Name and Code** NMSTO 39400
Short Title: PUBLIC BANKING ACT **Person Writing** Dominic Chavez
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
		Nonrecurring	General Fund

(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		NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

HB130 proposes to establish a “Public Bank of New Mexico” through the creation of a new “Public Banking Act.” Among its other statutorily authorized activities, the bank would be authorized to accept deposits, invest, and reinvest a new “state banking fund,” make, hold, and purchase certain types of loans, acquire and dispose of property, and purchase bonds issued by governmental entities. However, the bank would be prohibited from making loans to “a private individual or private legal entity.”

The bill proposes a non-reverting \$50 million appropriation for the initial capitalization of the bank, of which no more than \$4 million may be used for the purpose of establishing and chartering the public bank, as well as \$60 million from the general fund for deposit into the bank. HB130 also requires that any further funds used for the operating budget of the bank would need to be derived from bank income and equity. Until the bank is chartered, STO would be responsible for administering and disbursing the new state banking fund.

HB125 also contains provisions for the governance of the new bank, which would be created as a “governmental instrumentality.” The bank would be led by an 11-member board of directors, including the Chief Executive Officer of the New Mexico Finance Authority, the State Treasurer, the Secretary of Economic Development, four members appointed by the New Mexico Legislative Council, and four members appointed by the Governor. The board would be responsible for hiring a Chief Executive Officer with experience in investments, corporate governance, accounting, or finance. In turn, the Chief Executive Officer would be responsible for hiring bank staff, including a chief risk officer.

The bill contains an effective date of July 1, 2025.

FISCAL IMPLICATIONS

The bill proposes a non-reverting \$50 million appropriation for the initial capitalization of the bank, of which no more than \$4 million may be used for the purpose of establishing and chartering the public bank, as well as \$60 million from the general fund for deposit into the bank. HB130 also requires that any further funds used for the operating budget of the bank would need to be derived from bank income and equity. Until the bank is chartered, STO would be responsible for administering and disbursing the new state banking fund.

We are not sure how long it would take to charter but this would be an unfunded mandate to the State Treasurer’s Office which is currently short staffed and tight on budget.

SIGNIFICANT ISSUES

Although the bill states that four members of the board shall be appointed by the Governor, it should be noted that of the other members, the Secretary of Economic Development is also a Governor appointee as is the chief executive officer of the NM Finance Authority, totaling 6 of the 11. Four are appointed by the legislative council. The last member is the constitutionally independent elected office of the State Treasurer. Being that this is a bank, the Treasurer should

have much more influence in the appointment of members. This is concerning as the banking of the state is constitutionally and statutorily under the State Treasurer.

Section 3(K) provides that the board shall meet quarterly and at the call of the chair. As a best practice, a provision should be included allowing for a certain number of members to call a meeting, even in the absence of a call by the chair.

Section 4(B) provides that the public bank's CEO shall have experience in the field of "investment management, investment risk management, corporate governance, investment accounting or finance." Notably absent from this list is banking – which would seem to be the central qualification for a bank CEO.

Section 4(C)(5) provides that the bank's annual report shall be provided to the legislative finance committee, the revenue stabilization and tax policy committee, and any other appropriate interim legislative committee. It is unclear why the report is not also to be sent to the State Treasurer and State Board of Finance.

Section 4(D), page 6, line 6, states "chief a chief risk officer" which is a typo and should also add in compliance. Section 4(D) provides for a chief risk officer. Best practice would specify that this position includes compliance, suggesting need for an amendment to "chief risk and compliance officer." There is also discussion of a "certified risk manager" which should be a certified risk and compliance manager" unless these are two separate positions. Officers and managers should be streamlined.

Section 5(B) states that the bank shall not make loans to private individuals or private legal entities, except as specified in subsection (A). Subsection (A)(2)(e) does permit the bank to "make, purchase, guarantee or hold loans" originated by "local financial institutions[.]" This means that as the bill is written, the bank could purchase and hold loans to private individuals and entities—as long as another institution originated the loan. If this is not the intent of the bill, these sections should be written to clarify the legislature's intent.

Section 7(B) states that until the bank is chartered, the state treasurer shall administer the fund and that "money in the fund is appropriated to the state treasurer to be used for the purpose of carrying out the provisions of the Public Banking Act." However, it is unclear how long it will take to charter the bank, and this section therefore may impose significant duties upon the state treasurer. There is no money appropriated to the state treasurer for the performance of these duties. Additionally, the bill is unclear what the state treasurer must do to carry out "the provisions of the Public Banking Act" before the chartering of the bank. The imposition of unclear and unfunded duties on a state agency is problematic.

In the same section, prior to charter, the "disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the state treasurer or the state treasurer's representative."

Section 7(B)(C) states that once the bank is chartered, money in the fund may be disbursed on authorization of the CEO or an authorized representative. This bypasses the normal technical requirements for disbursement of state funds, which must go through the Department of Finance and Administration to comply with audit and best practices.

Section 8 exempts the bank from Chapter 6, Article 10 NMSA. Chapter 6, Article is a long-

standing and well-developed body of law, amended and fine-tuned by the legislature over more than a century, for the governance and safeguarding of public money. Exempting the bank means that any deposits of state funds in the bank (including the more \$100 million appropriated in this bill) are not governed by these protections. Notably, public money in the bank would not be subject to the same requirements, including collateralization, that funds held by the State Treasurer's office currently are. The exemption would also extend to numerous other rules and protections in Chapter 6, Article 10 that have been codified over the years, including what we can invest in. Extensive research—not possible within the time frames of this bill analysis—would be needed to evaluate how this exemption changes the state risk profile.

PERFORMANCE IMPLICATIONS

As noted above, the bill as written imposes unclear and unfunded duties on the office of the state treasurer. This may affect STO's performance targets. This bill would go into affect July 1, 2025 and nothing for this cost is proposed in the current Treasurer's budget.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

It is unclear if some of the duties performed in the legislation conflict or duplicate efforts that New Mexico Mortgage Finance Authority may currently be doing.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The status quo will be maintained.

AMENDMENTS