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HOUSE BILL 130

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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and Joseph Franklin Hernandez

AN ACT

RELATING TO PUBLIC FINANCE; ENACTING THE PUBLIC BANKING ACT;
CREATING THE PUBLIC BANK OF NEW MEXICO; ESTABLISHING A BOARD OF
DIRECTORS AND THE STRUCTURE OF THE PUBLIC BANK OF NEW MEXICO;
PROVIDING DUTIES; PERMITTING CERTAIN INVESTMENTS, LENDING
ACTIONS, PURCHASES AND PROPERTY TRANSACTIONS; PROHIBITING
CONFLICTS OF INTEREST; CREATING THE STATE BANKING FUND;
PROVIDING PENALTIES; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 7 of this act may be cited as the "Public Banking Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Public Banking Act:

- A. "bank" means the public bank of New Mexico;
- B. "board" means the board of directors of the

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1 bank;

2 C. "director" means a member of the board; and

3 D. "fund" means the state banking fund and shall
4 include all assets, liabilities, equity, income and expenses of
5 the bank.

6 SECTION 3. ~~[NEW MATERIAL]~~ PUBLIC BANK OF NEW MEXICO--
7 ESTABLISHED--BOARD OF DIRECTORS.--

8 A. The "public bank of New Mexico" is created as a
9 public body politic and corporate, constituting a governmental
10 instrumentality, which shall be chartered pursuant to the laws
11 of the United States.

12 B. The bank shall constitute a public body
13 corporate by the name set forth in the incorporation
14 certificate and by such name may sue and be sued, have the
15 capacity to make contracts, acquire, hold, enjoy, dispose of
16 and convey property real and personal, accept deposits, grants
17 and donations, borrow and lend money, incur indebtedness,
18 impose fees and assessments and do any other act necessary or
19 proper for carrying out the provisions of the Public Banking
20 Act.

21 C. The bank shall be governed, and all of its
22 functions, powers and duties shall be exercised, by the board
23 of directors. The board consists of eleven voting members, who
24 shall be appointed with input from the public, as follows:

- 25 (1) two members appointed by the New Mexico

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1 legislative council who have successful management experience
2 in banking finance or banking operations in a regulatory
3 environment; provided that the two members shall not be members
4 of the same political party;

5 (2) one member appointed by the New Mexico
6 legislative council who has successful community economic
7 development experience;

8 (3) one member appointed by the New Mexico
9 legislative council with at least five years of community
10 development experience working to address community needs;

11 (4) two members appointed by the governor who
12 have successful management experience in banking finance or
13 banking operations in a regulatory environment or who are
14 entrepreneurs with successful, sophisticated business borrowing
15 experience;

16 (5) one member appointed by the governor who
17 has successful community economic development experience, which
18 may be evidenced by experience with organizations;

19 (6) one member appointed by the governor with
20 at least five years of community development experience working
21 to address community needs;

22 (7) the chief executive officer of the New
23 Mexico finance authority;

24 (8) the state treasurer; and

25 (9) the secretary of economic development.

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1 D. The directors appointed pursuant to Subsection C
2 of this section shall be residents of the state and shall serve
3 for terms of four years and shall not serve more than two
4 consecutive terms, except as provided in Subsection E of this
5 section.

6 E. The initial board shall establish membership
7 terms for the directors appointed pursuant to Subsection C of
8 this section so that:

9 (1) four of the initial appointed members are
10 appointed for an initial term of two years; and

11 (2) four of the initial appointed members are
12 appointed for an initial term of four years.

13 F. A person currently serving as a board member, or
14 equivalent position, for a community development financial
15 institution, credit union, trust or other banking institution
16 or an employee of a community development financial institution
17 or credit union shall not be eligible to serve as a director.

18 G. Public members of the board of directors shall
19 receive per diem and mileage as provided in the Per Diem and
20 Mileage Act and directors shall receive no other compensation,
21 perquisite or allowance.

22 H. Directors, officers and employees of the bank
23 shall be governed by the provisions of the Governmental Conduct
24 Act.

25 I. Directors shall elect a chair of the board.

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1 J. If a vacancy occurs among the directors, the
2 appointing authority of the former director shall appoint a
3 replacement to serve out the term of that director. If a
4 director's term expires, the director shall continue to serve
5 until another member is appointed.

6 K. The board shall meet quarterly and at the call
7 of the chair. A majority of the directors constitutes a quorum
8 for the transaction of business, and the support of a majority
9 of the quorum is required for adoption of any action.

10 L. The board shall maintain minutes of all meetings
11 of the board and maintain other appropriate records, including
12 financial transaction records in compliance with state and
13 federal law and adequate to provide an accurate record for
14 audit purposes pursuant to the Audit Act.

15 M. Members of the board shall be subject to the
16 Financial Disclosure Act.

17 N. The bank shall be subject to all applicable
18 regulatory and reporting requirements that allow access to the
19 federal reserve and shall obtain a blanket bond on all
20 employees of the bank.

21 SECTION 4. [NEW MATERIAL] CHIEF EXECUTIVE OFFICER--CHIEF
22 RISK OFFICER--DUTIES--STAFF.--

23 A. The chief executive officer of the bank shall be
24 hired by the board and receive a salary to be determined by the
25 board. The position of the chief executive officer shall be a

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1 full-time position, and the chief executive officer shall not
2 engage in any other occupation or profession or hold any other
3 public office, appointive or elective.

4 B. The chief executive officer shall be an
5 individual qualified by experience in the field of investment
6 management, investment risk management, corporate governance,
7 investment accounting or finance. The chief executive officer
8 of the bank shall direct the affairs and business of the bank,
9 subject to the policies, control and direction of the board.
10 The chief executive officer shall have substantial experience
11 successfully running a financial institution of a comparable
12 asset size or greater and shall be responsible for achieving
13 the community and economic development purposes as described in
14 the Public Banking Act. The chief executive officer shall be
15 responsible for:

- 16 (1) the management of the bank;
- 17 (2) managing the bank's relations with
18 creditors, banking and credit union partners and local
19 communities;
- 20 (3) maintaining and improving the financial
21 health and the internal operations and overall performance of
22 the bank; and
- 23 (4) maintaining compliance of the bank with
24 fiscal and regulatory requirements.

25 C. The chief executive officer shall:

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1 (1) annually prepare a budget for the bank
2 that shall be reviewed and approved by the board. Any funds
3 provided for the operating budget of the bank shall be provided
4 from bank income and equity;

5 (2) hire all employees of the bank, including
6 chief a chief risk officer;

7 (3) keep accurate and complete records and
8 accounts concerning all transactions involving the bank;

9 (4) report to the board on all matters
10 pertaining to the bank; and

11 (5) report quarterly to the board on the
12 investments made pursuant to the Public Banking Act and on the
13 available and encumbered funds of the fund. Annually, a report
14 shall be submitted no later than October 1 each year to the
15 legislative finance committee, the revenue stabilization and
16 tax policy committee and any other appropriate interim
17 legislative committees. The bank shall make the report
18 available to the public by publishing the report on the
19 internet.

20 D. The chief risk officer of the bank shall report
21 to the board and to the chief executive officer. The chief
22 risk officer shall assist the chief executive officer in
23 strategic planning to achieve the corporate objectives and
24 regulatory expectations of the bank. The chief risk officer
25 shall hold the credential of a certified risk manager or an

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1 equivalent credential within that professional field.

2 SECTION 5. [NEW MATERIAL] INVESTMENTS--LENDING.--

3 A. Subject to the limitations, conditions and
4 restrictions provided by law or by policy adopted by the board,
5 the bank may:

6 (1) make purchases, sales, exchanges,
7 investments and reinvestments of the assets of the fund;
8 provided that all transactions be made pursuant to the Public
9 Banking Act and the Uniform Prudent Investor Act;

10 (2) make, purchase, guarantee or hold loans:

11 (a) to state-chartered or federally
12 chartered lending agencies or institutions;

13 (b) to instrumentalities or political
14 subdivisions of the state;

15 (c) to an organization that has been
16 granted exemption from the federal income tax by the United
17 States commissioner of internal revenue as an organization
18 described in Section 501(c)(3) of the federal Internal Revenue
19 Code of 1986 and subject to the provisions of the Nonprofit
20 Corporation Act;

21 (d) obtained as security pledged for, or
22 originated in the restructuring of, any other loan properly
23 originated or participated in by the bank; and

24 (e) originated by local financial
25 institutions authorized to do business in this state;

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- 1 (3) buy and sell federal bonds;
- 2 (4) lease, assign, sell, exchange, transfer,
3 convey, grant, pledge or mortgage real and personal property;
- 4 (5) purchase bonds, lend to other state
5 financing programs, acquire securities or make loans to
6 political subdivisions of the state for the purpose of
7 providing financing for a public project;
- 8 (6) purchase participation interests in loans
9 made or held by state-chartered or federally chartered
10 financial institutions; and
- 11 (7) enter into agreements or develop memoranda
12 of understanding with credit unions, community development
13 financial institutions or community banks for the purpose of
14 facilitating lending opportunities and carrying out the
15 provisions of the Public Banking Act.

16 B. The bank shall not make loans to a private
17 individual or private legal entity, except as provided in
18 Paragraph (2) of Subsection A of this section.

19 C. The bank shall pursue a policy of developing
20 loan programs for public benefit to further agriculture,
21 commerce and industry. In pursuit of this policy, the bank
22 shall:

- 23 (1) cooperate with small business development
24 centers, regional economic development districts and parties
25 that have demonstrated abilities and relationships in providing

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1 financial services to new and emerging businesses; and

2 (2) evaluate loan performance on the basis of
3 both risk analysis and public benefit.

4 D. The chief executive officer of the bank and the
5 board are trustees of all funds under their control.

6 SECTION 6. [NEW MATERIAL] CONFLICTS OF INTEREST--
7 PENALTY.--

8 A. If any director, officer or employee of the bank
9 has an interest, either direct or indirect, in any contract to
10 which the bank is or is to be a party, such interest shall be
11 disclosed to the board in writing. The director, officer or
12 employee having such interest shall not participate in any
13 action by the bank with respect to that contract.

14 B. Any person who has a conflict of interest as
15 provided in this section and participates in any transaction
16 involving that conflict of interest or knowingly fails to
17 notify the bank of that conflict is guilty of a misdemeanor and
18 upon conviction shall be sentenced pursuant to the provisions
19 of Section 31-19-1 NMSA 1978.

20 SECTION 7. [NEW MATERIAL] STATE BANKING FUND--CREATED.--

21 A. The "state banking fund" is created as a
22 nonreverting fund within the state treasury. The fund consists
23 of appropriations, capital, retained earnings, deposits and
24 investment income of the fund. Except as otherwise provided in
25 the Public Banking Act, money from payments of principal of and

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1 interest on loans and payments of principal of and interest on
2 securities held by the bank shall be deposited in the fund.

3 B. Until the bank is chartered, the state treasurer
4 shall administer the fund, and money in the fund is
5 appropriated to the state treasurer to be used for the purpose
6 of carrying out the provisions of the Public Banking Act.
7 Disbursements from the fund shall be made by warrant of the
8 secretary of finance and administration pursuant to vouchers
9 signed by the state treasurer or the state treasurer's
10 authorized representative.

11 C. When the bank becomes chartered pursuant to
12 federal law:

- 13 (1) the fund shall be transferred to the bank;
- 14 (2) the bank shall administer the fund;
- 15 (3) money in the fund is appropriated to and
16 retained by the bank for the purpose of carrying out the
17 provisions of the Public Banking Act; and
- 18 (4) money in the fund shall be disbursed on
19 vouchers signed by the chief executive officer of the bank or
20 the chief executive officer's authorized representative.

21 SECTION 8. A new Section 6-10-27.1 NMSA 1978 is enacted
22 to read:

23 "6-10-27.1. [NEW MATERIAL] PROVISIONS INAPPLICABLE TO THE
24 PUBLIC BANK OF NEW MEXICO.--The provisions of Chapter 6,
25 Article 10 NMSA 1978 shall not apply to the public bank of New

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1 Mexico."

2 **SECTION 9. APPROPRIATION.**--Fifty million dollars
3 (\$50,000,000) is appropriated from the general fund to the
4 state banking fund for expenditure in fiscal year 2026 and
5 subsequent fiscal years to capitalize the public bank of New
6 Mexico and to carry out the provisions of the Public Banking
7 Act; provided that no more than four million dollars
8 (\$4,000,000) shall be used for the purpose of establishing and
9 chartering the public bank of New Mexico and developing the
10 bank's lending programs. Any unexpended or unencumbered
11 balance remaining at the end of a fiscal year shall not revert
12 to the general fund.

13 **SECTION 10. CONTINGENT APPROPRIATION.**--Sixty million
14 dollars (\$60,000,000) is appropriated from the general fund to
15 the public bank of New Mexico to be deposited in an account
16 with the bank. Any unexpended or unencumbered balance
17 remaining at the end of a fiscal year shall not revert to the
18 general fund.

19 **SECTION 11. EFFECTIVE DATE--CONTINGENT EFFECTIVE DATE--**
20 **NOTIFICATION.**--

21 A. The effective date of the provisions of Sections
22 1 through 9 of this act is July 1, 2025.

23 B. The provisions of Section 10 of this act shall
24 become effective upon incorporation of the public bank of New
25 Mexico and the bank receiving its formal charter. The

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1 secretary of state shall notify the director of the legislative
2 council service and the New Mexico compilation commission that
3 the bank becomes incorporated and receives its formal charter.

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