FISCAL IMPACT REPORT

		LAST UPDATED	2/4/2025
SPONSOR	Rep. Roybal Caballero/Sen. Steinborn	**ORIGINAL DATE**	2/3/2025
SHORT TITLE	Public Banking Act	**BILL NUMBER**	House Bill 130
		ANALYST	Rodriguez/Gray

APPROPRIATION*
(dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	$110,000.0	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
STO Interest	$0.0	($2,200.0) to ($5,500.0)	($2,200.0) to ($5,500.0)	($2,200.0) to ($5,500.0)	($2,200.0) to ($5,500.0)	Recurring	General Fund

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Economic Development Department (EDD)
New Mexico Finance Authority (NMFA)
State Treasurer's Office (STO)

Agency Analysis was Solicited but Has Not Been Received From
State Investment Council (SIC)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of House Bill 130

House Bill 130 (HB130) creates the public bank of New Mexico (PBNM) and appropriates $110 million from the general fund to capitalize the bank. The bank is permitted to purchase and sell investments, loans, and bonds. The bill directs the bank to engage in activities in cooperation with economic development entities.

The effective date of this bill is July 1, 2025. A $60 million appropriation is effective on the incorporation of the bank.

FISCAL IMPLICATIONS

The appropriation of $110 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY25 shall not revert to the general fund.

The bill appropriates $50 million to PBNM, of which up to $4 million can be used for initial operating expenses. The bill also appropriates $60 million from the general fund to PBNM once the bank is incorporated, assumed to take place sometime in FY26, although incorporation could occur later.

These withdrawals come at varying degrees of opportunity cost, differing but likely increased levels of risk-adjusted investment returns, and unknown ultimate financial returns on investment.

Unappropriated general fund assets are invested in liquid, short-term investments. The investment horizon in the bill, however, is a permanent commitment, restricting state fund liquidity, and locking in an unknown return on investment. Anticipated interest lost by this deposit from State Treasurer's Office (STO) would generally be the short-term interest rate of between 2 to 5 percent, or between $2.2 million and $5.5 million.

Additional opportunity costs are also created by the appropriation of general fund toward nonprogrammatic uses. These opportunity costs are challenging to estimate but are likely large given the numerous fiscal needs of the state.

SIGNIFICANT ISSUES

The bill directs the bank to engage in three major activities:

- Invest in and issue loans to state entities, nonprofits, and in other financial products as enumerated in paragraph 2 of subsection A of section 5 (see page 8 lines 10 through 25); and,
- "Cooperate" with small business development centers, regional economic development districts with "demonstrated abilities and relationships in providing financial services to new and emerging businesses."

The bill establishes an 11-person board of directors, which is to include the state treasurer, the CEO of the New Mexico Finance Authority (NMFA), the secretary of the Economic Development Department (EDD), four members appointed by the governor, and four members appointed by the Legislative Council. The board has broad authority to establish policies that determine how the bank will execute the major objectives listed above.

The State Treasurer's Office states that "the Treasurer should have much more influence in the appointment of members" of the bank, in part because the management of state funds is part of that office's statutory and mandate.

The apparent intent of the legislation is to improve the state's economy by engaging in below-market lending, expand funding opportunities, reduce predatory practices, and reduce state expenditures that go to larger national banks that provide current custodial services of state funds.

EDD points out that PBNM may duplicate several federal and state entities that offer the same products.

EDD writes:

> There are already several state-funded entities providing funding to support the credit needs of New Mexico businesses, municipalities, and support existing lenders. These entities include but are not limited to the NMFA, Housing New Mexico (formerly New Mexico Mortgage Finance Authority), State Investment Council, New Mexico Small Business Investment Corporation (NMSBIC), and EDD. These entities work collaboratively with banks, credit unions and community development financial institutions, as well as small business development centers, regional economic development districts and parties that have demonstrated abilities and relationships in providing financial services to new and emerging businesses. Establishing the public bank seems to be a redundant function of existing programs in place.

The New Mexico Finance Authority similarly points out similarities between the contemplated PBNM and the Public Project Revolving Fund (PPRF) created to assist public entities in accessing capital at low- or below-market rates. The agency notes that the PPRF has financed more than 2 thousand state projects, totaling more than $4.9 billion and carries a strong rating among credit rating agencies. The longevity of the program and the strong ratings allow NMFA to offer very low interest rates to borrowers. "At this time," the agency writes, "it is unclear how the Public Bank could offer financing for public projects on more favorable terms than those offered by the PPRF."

The agency also notes that because the PBNM will need to grow its deposit bank it "may be perceived as competing" with existing depository institutions.

EDD also notes PBNM may be subject to more risk because it provides support to transactions that other lending entities have passed on. Exposure may also be a concern. Typically, banks are leveraged at a 10 to 1 ratio, meaning for each $1 of capitalization, banks typically make about $10 in loans and investments. "While the initial capitalization/appropriation is $110 million, the state's exposure could be $1.1 billion and grow as the bank grows," the agency writes. "This leverage creates a significant contingent liability. It's unclear whether the public bank would be FDIC-insured, but regardless, the FDIC protects depositors, not the owners of the bank."

EDD notes the bank would be the lender of last resort, providing support after all other entities—including governmental entities—have considered and passed the opportunity to do so.

State Treasurer's Office Analysis. The State Treasurer's Office makes many observations regarding the legislation, enumerated here.

First, the agency's analysis notes that the bill exempts PBNM from 6-10 et. seq. NMSA 1978. The agency notes:

> Chapter 6, Article 10 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.

The agency makes note of implementation concerns:

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 to 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.

The agency also makes note of the interaction between certain allowable entities that may receive loans.

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.

Lastly, the agency makes several technical suggestions, including a note about the qualifications required for the PBNM's CEO, the distribution of the annual report to executive entities, and the process of calling meetings.

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