

LFC Requester:	
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 01/23/2024

Bill No: HB 125

Sponsor: Rep. P. Roybal Caballero

Short Title: Public Banking Act

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

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	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

House Bill (“HB”) 125 (the “Act”) would create a public bank in New Mexico. This public bank would be managed by a Board of Directors (“Board”) consisting eleven voting members. Four of these eleven would be appointed by the New Mexico Legislative Counsel. The bill states that four would be appointed by the Governor, however, as the final member according to the Act is the Secretary of Economic Development—and that position is a Governor appointed — the Governor would have five appointees. The remaining board members would be the Chief Executive Officer of the New Mexico Finance Authority and the State Treasurer.

The Act further sets forth the role of the Chief Executive Officer of the public bank and sets forth their duties, compensation, and role to hire a Chief Risk Officer.

The public bank would have enumerated obligations under the Act to include:

1. Make purchases, sales, exchanges, investments and reinvestments of the assets of the public bank fund;
2. Make, purchase, guarantee, or hold loans as set forth in the Act;
3. Buy and sell federal bonds;
4. Lease, assign, sell, exchange, transfer, convey, grant, pledge, or mortgage real or personal property;
5. Purchase bonds, lend to other state financing programs, acquire securities, or make loans to political subdivisions of the state;
6. Purchase participation interests in loans made or held by state-chartered or federally chartered financial institutions;
7. Enter into agreements or develop memoranda of understanding with other financial entities; and
8. Pursue a policy of developing loan programs for public benefit to further agriculture, commerce and industry.

The public bank may not make loans to a private individual or private legal entity. The State Treasurer is to deposit \$35 million into the public bank. There are appropriations for \$21.5 million.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

None.

PERFORMANCE IMPLICATIONS

The New Mexico Department of Justice (“DOJ”) provides legal counsel for New Mexico boards and commissions that do not have budget or authority to retain staff legal counsel. Because HB 125 makes no provision for retention of counsel by the Board, the DOJ would likely be asked to fulfill its legal needs. During implementation of the Act, it is likely that the Board would require 80 hours of legal services monthly, or one-half of an FTE. Any attorney who provides services to this Board would likely need to have a background in banking law. The fiscal impact of staffing this role, including burden, would be approximately \$115,000.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Identical to SB 110

TECHNICAL ISSUES

Pg. 9:1: Suggest adding “except as otherwise prohibited by the Act” after “state.”

Pg. 9:4: Suggest adding comma after “pledge”

Pg. 9:17: Suggest adding “personal” between “make” and “loan” in order to make section work with Section 5, Paragraph A(4).

OTHER SUBSTANTIVE ISSUES

The State of North Dakota has had a public bank since 1919 which has survived constitutional challenge. In comparing this proposed bill with the language in the North Dakota statute, the language in many places is identical or similar.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS