

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 478

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE BIOSCIENCE
DEVELOPMENT ACT; CREATING THE BIOSCIENCE DEVELOPMENT FUND.

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

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--This act may be
cited as the "Bioscience Development Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the
Bioscience Development Act:

A. "authority" means the New Mexico bioscience
authority;

B. "bioscience" means the scientific areas
represented by life sciences and biotechnology that are
included in the five industries recognized by the United States
department of labor:

(1) drugs and pharmaceuticals;

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underscored material = new
[bracketed material] = delete

- 1 (2) medical devices and equipment;
- 2 (3) research testing and medical laboratories;
- 3 (4) bioscience-related distribution; and
- 4 (5) agriculture and chemicals related to
- 5 bioscience;

6 C. "board of directors" means the board of
7 directors of the authority;

8 D. "financial assistance" means tax incentives,
9 grants, loans and other financial benefits provided for
10 projects to a qualified entity on terms and conditions approved
11 by the authority;

12 E. "national laboratories" means Los Alamos
13 national laboratory and Sandia national laboratories; and

14 F. "research institutions" means the university of
15 New Mexico, New Mexico state university and the New Mexico
16 institute of mining and technology.

17 SECTION 3. [NEW MATERIAL] NEW MEXICO BIOSCIENCE AUTHORITY
18 CREATED--BOARD OF DIRECTORS--MEMBERSHIP.--

19 A. The "New Mexico bioscience authority" is created
20 as a public-private partnership, which shall be formed pursuant
21 to the Nonprofit Corporation Act, representing a collaborative
22 among state government, research institutions, national
23 laboratories and private industry in New Mexico. The authority
24 is administratively attached to and shall be considered an
25 affiliated supporting organization of the university of New

1 Mexico health sciences center pursuant to Section 6-5A-1 NMSA
2 1978. The authority shall constitute a public body corporate
3 by the name set forth in the incorporation certificate and by
4 such name may sue and be sued, have the capacity to make
5 contracts, acquire, hold, enjoy, dispose of and convey property
6 real and personal, accept grants and donations, borrow money,
7 incur indebtedness, impose fees and assessments and do any
8 other act or thing necessary or proper for carrying out the
9 purposes of the Bioscience Development Act.

10 B. The authority shall be governed, and all of its
11 functions, powers and duties shall be exercised, by the board
12 of directors. The board of directors shall consist of twelve
13 voting members as follows:

14 (1) two representatives of the university of
15 New Mexico health sciences center with experience in conducting
16 research in bioscience, to be appointed by the president of the
17 university of New Mexico;

18 (2) two representatives of New Mexico state
19 university with experience in conducting research in
20 bioscience, to be appointed by the president of the university;

21 (3) one representative of the New Mexico
22 institute of mining and technology with experience in
23 conducting research in bioscience, to be appointed by the
24 president of the institute;

25 (4) the secretary of economic development or

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1 the secretary's designee; and

2 (5) six members of the public who have
3 experience working in bioscience as follows:

4 (a) two members appointed by the
5 governor with the advice and consent of the senate; and

6 (b) four members appointed by the New
7 Mexico legislative council with the advice and consent of the
8 senate; provided that no more than two members shall be members
9 of the same political party.

10 C. The public members appointed pursuant to
11 Paragraph (5) of Subsection B of this section by the governor
12 and the New Mexico legislative council shall be residents of
13 the state and shall serve for terms of four years, except for
14 the initial appointees, who shall be appointed so that the
15 terms are staggered after initial appointment. Initial
16 appointees by the governor shall serve terms as follows: one
17 member for two years and one member for four years. Initial
18 appointees by the New Mexico legislative council shall be
19 appointed to serve terms as follows: one member for one year,
20 one member for two years, one member for three years and one
21 member for four years.

22 D. Members shall receive no compensation,
23 perquisite or allowance for serving as a member of the board of
24 directors.

25 E. The board of directors shall adopt bylaws, in

1 accordance with the Nonprofit Corporation Act, which bylaws
2 shall govern the conduct of the authority. Members of the
3 board of directors shall elect a chair of the board, any other
4 officers from the membership that the board determines to be
5 appropriate and an executive director as set forth in the
6 bylaws.

7 F. The chair and four voting members of the board
8 of directors appointed by the chair, two of whom shall be
9 public members, shall constitute the "bioscience authority
10 executive committee". The executive director and chair of the
11 board of directors shall be a nonvoting member of the executive
12 committee. The executive committee shall have powers and
13 duties as delegated to it by the board of directors.

14 G. If a vacancy occurs among the appointed voting
15 members of the board of directors, the appointing authority of
16 the former member shall appoint a replacement to serve out the
17 term of that member. If an appointed member's term expires,
18 the member shall continue to serve until another member is
19 appointed.

20 H. The board of directors shall meet at the call of
21 the chair and shall meet at least once every three months.

22 I. The board of directors shall maintain written
23 minutes of all meetings of the authority and maintain other
24 appropriate records, including financial transaction records in
25 compliance with law and adequate to provide an accurate record

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1 for audit purposes pursuant to the Audit Act.

2 SECTION 4. [NEW MATERIAL] LIMITATIONS ON DIRECTOR
3 ACTIVITIES.--

4 A. Except as provided in Subsection B of this
5 section, members of the board of directors are public officers
6 subject to the provisions of the Governmental Conduct Act.

7 B. Members of the board of directors shall not,
8 within one year of having served as a director, accept
9 employment with an entity that has benefited from a contractual
10 or other activity with the authority. Any person who knowingly
11 and willfully violates the provisions of this subsection is
12 guilty of a fourth degree felony and shall be sentenced
13 pursuant to the provisions of Section 31-18-15 NMSA 1978;
14 provided, however, that nothing contained herein shall be
15 construed to prohibit a member of the board of directors who is
16 employed by a research institution or a national laboratory
17 that may have benefited from a contractual or other activity
18 with the authority from continuing in that employment nor to
19 have violated this section continuing in such employment. An
20 alleged violation of this subsection may be reported to the
21 attorney general or district attorney for enforcement.

22 SECTION 5. [NEW MATERIAL] AUTHORITY POWERS AND DUTIES.--

23 A. The authority shall:

24 (1) advise the governor, the economic
25 development department, the legislature and the New Mexico

1 finance authority oversight committee on methods, proposals,
2 programs and initiatives that may stimulate investment in
3 bioscience industries and provide additional employment
4 opportunities for New Mexico residents;

5 (2) make and execute all contracts and other
6 instruments necessary or convenient to the exercise of its
7 powers and duties;

8 (3) create programs to expand bioscience
9 economic opportunities within New Mexico, including potential
10 means of providing financial assistance and incentives for
11 bioscience industries and facilities;

12 (4) create avenues of communication between
13 New Mexico and representatives of bioscience industries;

14 (5) promote legislation that will further the
15 goals of the authority and development of bioscience industries
16 and facilities;

17 (6) oversee, produce or cause to have produced
18 promotional literature related to explanation and fulfillment
19 of the authority's goals;

20 (7) identify science and technology trends
21 that are significant to bioscience enterprises and act as a
22 clearinghouse for bioscience enterprise issues and information;

23 (8) coordinate and expedite the involvement of
24 the state executive branch's bioscience-related development
25 efforts;

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1 (9) perform or cause to be performed
2 environmental, transportation, communication, land use and
3 other technical studies necessary or advisable for bioscience
4 projects or programs; and

5 (10) actively recruit industries and establish
6 programs that will result in the location and relocation of new
7 bioscience industries in the state.

8 B. The authority may:

9 (1) solicit and accept federal, state, local
10 and private grants of funds, property or financial or other aid
11 in any form for the purpose of carrying out the provisions of
12 the Bioscience Authority Act; and

13 (2) act as an applicant for bioscience
14 facilities and assist in carrying out all tasks and functions
15 for the acquisition or construction of bioscience facilities,
16 including filing all necessary documents and follow-up of such
17 filings with appropriate agencies.

18 C. In exercising its authority, the authority shall
19 not incur debt as a general obligation of the state or pledge
20 the full faith and credit of the state to repay debt.

21 SECTION 6. [NEW MATERIAL] AUTHORITY STAFF--CONTRACTS.--

22 A. The executive director shall, in consultation
23 with the board of directors, direct the affairs and business of
24 the authority.

25 B. The authority may contract with any other

1 competent private or public organization or individual to
2 assist in the fulfillment of its duties.

3 SECTION 7. [NEW MATERIAL] FUND CREATED.--

4 A. The "bioscience development fund" is created in
5 the state treasury. Separate accounts within the fund may be
6 created for any project. Money in the fund, subject to
7 appropriation by the legislature, may be expended by the
8 authority for the purposes of carrying out the provisions of
9 the Bioscience Development Act. Money in the fund shall not
10 revert at the end of a fiscal year.

11 B. Except as provided in this section, money
12 received by the authority shall be deposited in the fund,
13 including:

- 14 (1) money appropriated by the legislature;
15 (2) interest earned upon money in the fund;
16 (3) property or securities acquired through
17 the use of money belonging to the fund;
18 (4) all earnings of property or securities
19 acquired pursuant to Paragraph (3) of this subsection;
20 (5) all of the money received by the authority
21 from a public or private source; and
22 (6) fees, rents or other charges imposed and
23 collected by the authority.

24 C. Disbursements from the bioscience development
25 fund shall be made only upon warrant drawn by the secretary of

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1 finance and administration pursuant to vouchers signed by the
2 secretary of economic development or the secretary's designee
3 pursuant to the Bioscience Development Act.

4 SECTION 8. [NEW MATERIAL] REPORT TO THE GOVERNOR AND THE
5 LEGISLATURE.--The authority shall submit a report of its
6 activities to the governor and to the appropriate interim
7 committees of the legislature not later than October 1 of each
8 year.