

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 119

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; AMENDING AND ENACTING SECTIONS OF THE BIOSCIENCE DEVELOPMENT ACT; AUTHORIZING INVESTMENT IN BIOSCIENCE COMPANIES; ESTABLISHING REQUIREMENTS; PROVIDING PENALTIES.

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

SECTION 1. Section 9-15E-1 NMSA 1978 (being Laws 2017, Chapter 134, Section 1) is amended to read:

.231471.2AIC March 6, 2025 (11:50am)

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"9-15E-1. SHORT TITLE.--~~[This act]~~ Chapter 9, Article 15E NMSA 1978 may be cited as the "Bioscience Development Act".

SECTION 2. Section 9-15E-2 NMSA 1978 (being Laws 2017, Chapter 134, Section 2) is amended to read:

"9-15E-2. 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;
- (2) medical devices and equipment;
- (3) research testing and medical laboratories;
- (4) bioscience-related distribution; and
- (5) agriculture and chemicals related to

bioscience;

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

Sf11→D. "co-investing organization" means a person principally engaged in holding, managing and investing securities, including a venture capital firm, a growth equity firm, a private equity firm and an angel investment firm;←Sf11

Sf11→D.←Sf11 Sf11→E.←Sf11 "financial assistance"

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means tax incentives, grants, loans and other financial benefits provided for projects to a qualified entity on terms and conditions approved by the authority;

Sf11→F. "immediate family" means those persons related by blood or marriage as well as stepchildren, foster children and adopted children or persons who live in the same residence and maintain a single economic unit;←Sf11

Sf11→E.←Sf11 Sf11→G.←Sf11 "national laboratories" means Los Alamos national laboratory and Sandia national laboratories; [~~and~~]

Sf11→F.←Sf11 Sf11→H.←Sf11 "New Mexico business" means, in the case of a corporation or limited liability company, a business with the business's principal office and a majority of the business's full-time employees located in New Mexico or, in the case of a limited partnership, a business with the business's principal place of business and at least eighty percent of the business's assets located in New Mexico;

Sf11→G.←Sf11 Sf11→I.←Sf11 "portfolio business" means a bioscience business in which the authority has made an investment; and

[F.] Sf11→H.←Sf11 Sf11→J.←Sf11 "research institutions" means the university of New Mexico, New Mexico state university and the New Mexico institute of mining and technology."

SECTION 3. Section 9-15E-7 NMSA 1978 (being Laws 2017, Chapter 134, Section 7) is amended to read:

"9-15E-7. FUND CREATED.--

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A. The "bioscience development fund" is created in the state treasury. Separate accounts within the fund may be created for any project. Money in the fund, subject to appropriation by the legislature, may be expended by the authority for the purposes of carrying out the provisions of the Bioscience Development Act. Any general fund balance from money appropriated by the legislature in the fund shall not revert at the end of a fiscal year.

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

(1) money appropriated by the legislature;
 (2) interest earned upon money in the fund;
 (3) property or securities acquired through the use of money belonging to the fund;

(4) all earnings of property or securities acquired pursuant to Paragraph (3) of this subsection;

(5) all earnings on investments made by the authority;

~~(5)~~ (6) all of the money received by the authority from a public or private source; and

~~(6)~~ (7) fees, rents or other charges imposed and collected by the authority.

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

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

SECTION 4. Section 9-15E-8 NMSA 1978 (being Laws 2017, Chapter 134, Section 8) is amended to read:

"9-15E-8. REPORT TO THE GOVERNOR AND THE LEGISLATURE.-- The authority shall submit a report of its activities for the prior fiscal year to the governor and to the appropriate interim committees of the legislature not later than October 1 of each year, and the report shall be posted on the authority's website."

SECTION 5. A new section of the Bioscience Development Act is enacted to read:

"[NEW MATERIAL] INVESTMENTS--REQUIREMENTS--REIMBURSEMENT OBLIGATIONS.--

A. The authority may invest in a bioscience business that:

(1) is a New Mexico business that shall maintain a minimum in-state workforce of five employees with a minimum median annual salary of sixty thousand dollars (\$60,000) as a condition of the investment; or

(2) pursuant to a contract with the authority, shall relocate to New Mexico and agree to maintain the bioscience business as a New Mexico business for a minimum period of five years as a condition of the investment and maintain a minimum in-state workforce of five employees with a minimum median annual salary of sixty thousand dollars

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(\$60,000).

B. The authority shall assess a bioscience business prior to making an investment decision. An assessment shall include the following assessment factors with scoring weights determined by the authority by rule:

- (1) the market opportunity presented by the product or service offered by the business;
- (2) the current financial stability and status of the business;
- (3) the expertise and experience in bioscience and business start-ups of the officers of the business;
- (4) the business's business plan and strategy to capture or create a market for the business's products or services;
- (5) the business's competitive assets, including intellectual and physical properties;
- (6) the established business's exit strategy;
- (7) the projected economic benefits of the New Mexico business over the next five years, including projected sales, revenue and the number of in-state employees; and
- (8) the projected social benefits of the business in accordance with procurement preferences provided in state or federal law.

C. Investments made pursuant to this section shall be made with a co-investing organization chosen by the

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authority in consultation with the university of New Mexico purchasing office through a competitive process; provided that the co-investing organization meets the following requirements:

(1) the officer of the co-investing organization with final decision-making authority for a co-investment with the authority shall have a minimum of five years of experience investing in bioscience companies or a minimum of ten years of experience investing in start-up companies; and

(2) the authority's investment in a bioscience business shall be no more than one-third of the combined investment of the authority and a co-investor organization in that business within a twelve-month period, making the co-investor organization the lead investor and the authority a follow-on investor.

D. An investment contract with a portfolio business shall specify that:

(1) if the portfolio business fails to meet its contractual obligations pursuant to this section, it shall either:

(a) fully reimburse the authority for the bioscience development fund's cost basis in the portfolio business; or

(b) document to the satisfaction of the authority that the portfolio business has provided economic benefits to the state that exceed the authority's cost basis in the business;

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(2) in any sale of a majority of the assets or a majority of the voting stock of the business to a single entity or set of affiliated entities, the acquiring entity or set of affiliated entities shall assume the legal obligations of the contract with the authority;

(3) in a bankruptcy proceeding, liquidation or deemed liquidation event for the portfolio business, a claim by the authority shall be paid first, except as otherwise provided by federal or state law; and

(4) milestones shall be met quarterly, semi-annually or annually on a case-by-case basis dependent on the type of investment to release a disbursement of funds; provided that milestones may include:

- (a) key hires;
- (b) reaching a higher technological readiness level;
- (c) signing partnership or collaboration agreements;
- (d) being awarded grants and contracts with agencies, foundations or private industry;
- (e) filing new intellectual property patents and receiving granted patents;
- (f) sales and sales agreements for equipment, goods and services;
- (g) investigational new drug approval;

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(h) in vitro or in vivo proof of technology;

(i) immunogenicity data to support investigational new drug filing; and

(j) other milestones deemed appropriate for the investment by the authority.

E. When a portfolio business must compensate the authority pursuant to this section due to an acquisition by another entity or a relocation outside of the state, the authority, in collaboration with local investors, may accept stock in the acquiring entity or in the relocated business in lieu of a cash payment if the value of the stock would be equal to or greater than the amount that the business must compensate."

SECTION 6. A new section of the Bioscience Development Act is enacted to read:

"[NEW MATERIAL] EMPLOYMENT RESTRICTIONS.--

A. An entity that has benefited from a contractual or other activity with the authority, including the receipt of co-investment funding, shall:

(1) have no employee related to a member of the board of directors Sf11→or a member of a director's immediate family←Sf11 ; and

(2) not hire a member of the board of directors Sf11→nor←Sf11 Sf11→,←Sf11 an employee of the authority Sf11→nor a member of a director's or an employee's immediate family←Sf11 within one year of the completion of the

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board member's term of office or the employee's service with the authority.

B. Any person who knowingly and willfully violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Subsection B of Section 30-1-6 NMSA 1978. An alleged violation of Subsection A of this section may be reported to the attorney general or district attorney for enforcement."

SECTION 7. A new section of the Bioscience Development Act is enacted to read:

"[NEW MATERIAL] INVESTMENT REPORTING.--Quarterly reports for all investments shall be presented to the board of directors by the board of the investment committee during regular board meetings, and such reports shall be publicly available pursuant to the Open Meetings Act."

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.

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