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FISCAL IMPACT REPORT

SPONSOR Munoz/Hickey LAST UPDATED 3/8/2023
ORIGINAL DATE 3/2/2023
SHORT TITLE Bioscience Fund Reversion & Investment BILL NUMBER Senate Bill 382/aSFC
ANALYST Dick-Peddie

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No Fiscal Impact	No Fiscal Impact	No Fiscal Impact			

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to appropriation in the General Appropriation Act

Sources of Information

LFC Files

Responses Received From

Economic Development Department (EDD)

State Investment Council (SIC)

New Mexico Attorney General (NMAG)

University of New Mexico (UNM)

No Response Received

New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of SFC Amendment to Senate Bill 382

The Senate Finance committee amendment removes the appropriation from the bill.

Synopsis of Original Bill

Senate Bill 382 appropriates \$50 million from the general fund to the bioscience development fund for the purpose of co-investment in New Mexico-based bioscience businesses and projects. The bill amends current statute to make the bioscience development fund, a non-reverting fund.

SB382 would also grant the Biosciences Authority powers to enter partnerships with private investment organizations qualified by at least five-years-experience in investing in New Mexico-

based companies. Entities may include venture capital, growth equity, private equity, and angel investment firm partners. Firms would be required to be either New Mexico based or willing to relocate to New Mexico, with additional eligibility requirements determined by the Bioscience Authority board of directors in conjunction with the University of New Mexico's purchasing department. Investments will require a ratio of at least 2-1 private match. Recipients of bioscience development funds would be required to establish and/or maintain operations in New Mexico with a minimum of five employees for a period of at least five years or until the business fails. Funds disbursed from the fund would still require approval of the Secretary of the Economic Development Department and authorization by the Department of Finance and Administration.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

LFC records do not show significant reversions from the bioscience development fund, therefore this analysis does not assume a negative revenue impact as a result of making the fund non-reverting.

The House Appropriations and Finance Committee substitute for House Bill 2 does not contain an appropriation for the bioscience development fund, but does contain an appropriation of \$50 million to the Economic Development Department for public-private partnerships associated with advanced technology.

SIGNIFICANT ISSUES

Background

UNM notes the NM Bioscience Authority (NMBSA) was created by the New Mexico Legislature as a public-private partnership in 2017 after a report showed the strength of the growing bioscience industry, its presence in New Mexico, and examples of how New Mexico could encourage and capture this burgeoning industry. UNM also reports that the bioscience industry's impact on the U.S. economy totaled \$2.6 trillion dollars in 2018, and its employment base has grown more than twice as much as the overall private sector since 2016, with wages nearly two times the overall U.S. average.

UNM further states that New Mexico has the “foundational elements to grow, attract, support, and foster bioscience businesses, yet it lags behind compared to other states.” UNM and SIC both note that while New Mexico may initially attract bioscience startups, the lack of access to capital in the state leads to companies leaving to seek larger, out-of-state investors. Exagen, for example, which SIC first invested more than 15 years ago, moved operations from New Mexico to California for strategic business purposes and later had an initial public offering (IPO) and remains a publicly traded company, headquartered in Vista, California. SIC notes that though there “are hopes the investment will ultimately be financially profitable, the company's relative success did not lead to substantial job creation in New Mexico.”

NMBSA hired a third party firm, Econsult Solutions, to assess this issue. Its recommendation was that New Mexico needs a direct investment fund of \$25 to \$50 million to compete and

establish a vibrant bioscience industry. UNM further explains how the program could facilitate development in the state:

Through the co-investment program, NMBSA and qualified private investment organizations (such as Angel Investors or Venture Capital) will co-invest in qualified, selected bioscience businesses in exchange for equity, such as shares in the company. Senate Bill 382 requires that the private investment organization invest at least twice the amount invested by the NMBSA. This requirement leverages the money placed in the Bioscience Development Fund. The selected bioscience business receives 50% more funding than it would have without NMBSA's co-investment. The bioscience business keeps its employees and spending power in New Mexico. Because the NMBSA has an equity position in the bioscience business, any acquisition of the bioscience business will net returns to shareholders that the NMBSA will place in the Bioscience Development Fund to fund further co-investment.

EDD similarly notes the potential benefits of growing bioscience funding in the state:

This bill may result in additional economic development opportunity throughout the state by providing significant funding to drive the development, scaling, and implementation of advanced technologies and innovations related to the biosciences. The co-investment fund may enable the continued collaboration of the universities, national laboratories, public and private sector to increase the pipeline of high-growth potential companies by providing material support and much needed capital to bioscience startups in New Mexico. The size of the fund may enable investment in the full continuum of bioscience business stages including growth stage businesses. Investments from the co-investment fund may facilitate follow-on investment considering the stipulation to leverage investment at a minimum of 2:1 ratio for public to private capital. Investment in [bioscience] companies may support the growth and expansion of new businesses, job creation, innovation, and workforce development opportunities. The growth of businesses related to commercializing bioscience technologies may increase the tax base. This appropriation could make launching a bioscience startup and doing business in New Mexico more attractive for companies with an innovative technology.

Existing Programs

Currently, the Economic Development Department (EDD) offers a range of support for bioscience, which is one of the agency's target industries, including the Office of Science and Technology, which provides small businesses and interested parties with resources and expertise on intelligent manufacturing, cybersecurity, bioscience, sustainable and green energy, and aerospace. EDD is also working to award approximately \$73 million in federal State Small Business Credit Initiative (SSBCI), approximately \$64 million of which is for venture capital investments. The program's objectives include promoting equity through investments with socially and economically disadvantaged individuals, leveraging private investment, and fueling economic and industry growth.

Additionally, the Legislature created two new programs for new and existing businesses during the 2022 regular legislative session, appropriating \$70 million for the Opportunity Enterprise Act fund to provide financing, leases, loans, and revolving funds to qualifying businesses and \$35 million for the venture capital fund to make investments in new, emerging, or expanding

business (including bioscience entities) in New Mexico. The Legislature appropriated a total of \$162 million in one-time appropriations to programs with the ability to assist bioscience companies last year alone.

Purpose	Total Appropriation (in thousands) for FY23-FY24
Local Economic Development Act	\$50,000
Venture Capital Investment Fund	\$35,000
Opportunity Enterprise Act	\$70,000
Job Training Incentive Program	\$7,000
TOTAL	162,000

The State Investment Council also has an existing statutory authorization of up to 11 percent of the \$7.64 billion severance tax permanent fund to be used for New Mexico start-up company investments. The council reports that, by policy, it has targeted 9 percent of this allocation (approximately \$690 million) to tech-transfer, which bioscience entities would qualify under. In November of 2022 SIC committed \$100 million to America’s Frontier Fund (AFF), a venture capital fund focused on “frontier technology.” SIC provides the following context on the investment:

The features AFF cited for choosing New Mexico to launch its investment effort include NM’s federal labs, universities, entrepreneurial network and skilled workforce. AFF intends to build a for-profit venture studio in New Mexico to connect technology, talent and investment capital to promote innovation and commercialization of technology. While the primary focus of AFF will be on microelectronics, strong artificial intelligence, advanced manufacturing and quantum sciences, they have a secondary interest in synthetic biology and other bioscientific research.

SIC has several other bioscience-related companies in its current investment portfolio, including Agilvax, Azano Scientific, and Exagen Diagnostics.

Risk

SIC notes potential risks associated with bioscience investment as a job development tool:

While bioscience-focused intellectual property can be developed anywhere, the major U.S. biotech hubs are in Boston, San Diego, San Francisco, New York, Houston, Seattle, and North Carolina’s Research Triangle Park. Typically research developed outside of those cities will be built with a hybrid workforce and eventually sold to pharmaceutical companies on the coasts, rather than setting up new employment or manufacturing centers from the origin point of research. As such, long-term industry and substantial job creation in this strategy can be challenging.

Additionally, the legislation requires recipients to establish New Mexico operations of at least five employees for a period of at least five years, but does not contain any recourse for firms that fail to meet these requirements. SIC notes that specific “clawback” contractual terms will typically be a waste of time with start-up companies, as those that fail will not have any remaining resources to return to the state. SIC further states that if potential partnerships with larger corporations are being considered for funding, specific recovery or language should be evaluated.

ADMINISTRATIVE IMPLICATIONS

UNM does not anticipate additional operating expenses associated with administering the fund.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to a nonrecurring \$50 million appropriation in the General Appropriations Act to EDD for advanced technology.

TECHNICAL ISSUES

SIC notes that private equity and venture capital investments can be difficult to execute under the state-mandated request for proposal (RFP) process. As a result, SIC and NMFA are excluded from certain investment-related RFP requirements, but EDD is not. According to SIC, this has led to complications in EDD's deployment of investments in the past. SB382 may benefit from addressing procurement code exemptions for the bioscience fund.

OTHER SUBSTANTIVE ISSUES

SIC notes the fund may grow more quickly with a “two fund structure”:

The legislature has at times looked to expand the lifespan of large, multi-million-dollar appropriations expected to be deployed over multiple years, by using a two-fund structure that can be optimally invested with a core/permanent fund, and then deployed as needed through a parallel “program fund” that is fed from the core fund. This allows for a more-robust risk/return investment profile of the core fund than could be achieved through short-term investments. While investments into short-term funds will likely be “safer” in protecting the fund corpus from volatility, they will also not earn much relative to a higher-risk, higher-earning fund that can afford short-term losses that will be recouped and grown at a greater pace in a diversified long-term investment vehicle over a multi-year period. The expected pacing of investment deployment from the BDF is not defined in SB382, and a longer-term investment core fund for the \$50mm appropriation is not contemplated. If deployment of the appropriation is expected over many years, a two-fund structure for optimization of investment assets should be considered.

ADP/rl/ne