

LFC Requester:

Julisa Rodriguez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1/27/25

Check all that apply:

Bill Number: SB119

Original Correction
Amendment Substitute

Sponsor: Sen. George K. Munoz, Sen. Martin Hickey, and Rep. Meredith A. Dixon

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

Person Writing

Short Title: Investment in Bioscience Companies

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	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

Synopsis:

This bill introduces amendments to the “Bioscience Development Act,” NMSA 1978, Section 9-15E-1 to – 8 (the “Act”) and three new sections to the Act. The amendments include definitions of the new terms “New Mexico business” and “portfolio business,” an update that prohibits an unexpended or unencumbered balance in the bioscience development fund from reverting to the general fund, provides an expansion of the source of monies received to include “all earnings on investments made by the authority,” and clarifies reporting requirements to the governor and the inclusion of the report on the authority’s website.

New language would permit the authority to invest in certain bioscience businesses that meet certain requirements and require the authority to assess such businesses based on market opportunity, financial stability, expertise and experience, a thorough business plan and strategy, competitive (intellectual and physical) assets, an exit strategy, projected economic benefits, and projected social benefits. The bill would require the authority to make the investments with a co-investing organization chosen in consultation with the University of New Mexico through a competitive process. The co-investing organization’s officer shall have five years of experience investing in bioscience, or ten years’ experience investing in startups, and the co-investor organization shall be the lead investor.

A contract with a portfolio business shall include provisions that require reimbursement if the business fails to meet its obligation or document the economic benefits to the state that exceed the authority’s cost basis. If a sale of the assets occurs, the acquiring entity shall assume the legal obligations of the contract, and if bankruptcy occurs, the authority shall be paid first. If the authority is compensated by the business due to an acquisition, the authority may accept stock in lieu of money payment, upon approval of the state investment council.

An entity that benefits from a contractual arrangement with the authority shall have no employee related to a member of the board of directors and shall not hire a member of the board within one year of the member’s tenure on the board. A person knowingly or willingly violating the provisions is “guilty of a fourth-degree felony and shall be sentenced pursuant to provisions of Section 31-18-15-NMSA 1978. An alleged violation of Subsection A of this section may be reported to the attorney general or district attorney for enforcement.”

Lastly, the bill would require quarterly reports presented to the board of directors during a regular board meeting and be made publicly available and calls for a twenty-five million dollar appropriation from the general fund to the bioscience fund beginning FY2026 and subsequent years, of which remaining balances shall not revert.

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

This bill opens a new avenue for collaborative funding for bioscience companies, either already established in New Mexico or those relocating to the state. The types of businesses that are available for co-investing are defined and standards for assessing the businesses capacity to successfully partner range from financial stability, expertise, assets and projected economic benefits. Additional limitations on the percentage of funding which comes from the authority requires the co-investor organization to be the lead investor. This limits co-investment opportunities to established organizations, likely protecting the state from over-leveraging.

The statute would also require provisions in a contract with the recipient portfolio business where that business fails to meet its obligations, it is required to fully reimburse the state or show that the business has provided economic benefits that exceed the authority's cost basis. The state would also be paid first if a bankruptcy proceeding occurs.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

Allegation of violation of the employment restrictions as drafted may be sent to the attorney general or the district attorney for enforcement. Depending on the number of allegations, this will cause an increase in workload for the department of justice or the district attorney of the jurisdiction.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The Governmental Conduct Act, Section 10-16-4 NMSA 1978, prohibits official acts by public officers or employees for personal gain and provides that a knowing and willing violation is a fourth-degree felony. Similarly, this bill prohibits an entity which has benefited from a contractual activity with the authority from employing a person related to a member of the board of directors, and that the entity shall not hire a member of the board of directors until after one year following the completion of the board member's tenure.

TECHNICAL ISSUES

Since the Open Meetings Act, NMSA 1978, Sections (10-15-1 to 10-15-4), does not require a public body to provide reports in a specific manner, Section 7 could be modified to provide information about where the reports might be found.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

N/A