

<b>LFC Requester:</b>	<b>Jorgenson</b>
-----------------------	------------------

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**  
**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

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

<b>Date Prepared:</b>	02/03/2025	<i>Check all that apply:</i>			
<b>Bill Number:</b>	SB231	Original	<input checked="" type="checkbox"/>	Correction	<input type="checkbox"/>
		Amendment	<input type="checkbox"/>	Substitute	<input type="checkbox"/>

<b>Sponsor:</b>	Senator Boone	<b>Agency Name and Code Number:</b>	New Mexico Environment Department 667		
<b>Short Title:</b>	Beneficial Substances Act	<b>Person Writing Analysis:</b>	Rick Shean		
		<b>Phone:</b>	505-629-6494	<b>Email:</b>	Rick.Shean@env.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0	0	

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

<b>Total</b>	0	0	0	0		
--------------	---	---	---	---	--	--

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: SB 214  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: Regulates the sale of beneficial substances (which are beneficial to plants, soil, or media; excludes pesticides and fertilizer) in the state through required labeling, registration, inspections, penalties, and reporting. Provides exemptions and preempts local regulation. The bill states on p. 5, line 18, that the Beneficial Substances Act shall be administered solely by the “board” through the “department,” meaning that primary responsibility for administering the act is solely on the NMSU Board of Regents rather than the Department of Agriculture. Likewise, the Board of Regents is given rulemaking authority over the Act. Other major policy authority is given to the Department of Agriculture.

**FISCAL IMPLICATIONS**

None.

**SIGNIFICANT ISSUES**

The current wording of the bill implicitly adds a new exemption from hazardous waste regulations under beneficial use provisions, adding confusion to the regulatory authority of the New Mexico Environment Department (NMED) and its regulatory authority of hazardous waste. To prevent this, NMED recommends adding to the section on beneficial substance “adulteration” to specify that a beneficial substance cannot have hazardous waste as a component.

NMED periodically encounters businesses that attempt to pass off hazardous wastes as “products.” NMED recommends one addition in the new 76-11A-12 on p. 14 to address this concern, as provided in the amendments section below.

This bill’s revised exemption in the amendment mirrors the exemption in the NMED’s hazardous waste regulations, but in contrast provides the authority to NMDA to either address, or refer to NMED, any instance where hazardous wastes are included in a soil amendment material, and prevents anyone from using the uncorrected language in this bill to say they are otherwise exempt and okay to adulterate beneficial substances in lieu of properly disposing of such wastes. This is a concern because the language in 76-11A-12(A) only states “in sufficient amount”, providing a loophole for a business to dilute their hazardous waste and deem it an ingredient of a beneficial substance.

**PERFORMANCE IMPLICATIONS**

None.

## **ADMINISTRATIVE IMPLICATIONS**

None.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Related to SB 214.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

NMDA's current enforcement authority would remain the same.

## **AMENDMENTS**

Recommend adding 76-11A-12(D) to read: "It contains any hazardous wastes, as defined in 74-4-3(K), that are not themselves equivalent in composition to a beneficial substance". This would be added to the list of conditions under which NMDA would consider a beneficial substance "adulterated".