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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/20

SPONSOR Munoz LAST UPDATED _____ HB _____

SHORT TITLE Bioscience Development Fund Changes SB 61

ANALYST Martinez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
	\$50,000.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Economic Development Department (EDD)
NM Bioscience Authority (NMBSA)

SUMMARY

Synopsis of Bill

Senate Bill 61 appropriates \$50 million from the general fund to the Bioscience Development Fund within the state treasury. Money in the fund is subject to appropriation by the legislature. Money in the fund shall not revert at the end of the fiscal year.

Laws 2017, Chapter 134 created the BioScience Development Act, Bioscience Authority, and Bioscience fund. The authority is administratively attached to and shall be considered an affiliated supporting organization of the university of New Mexico health sciences center pursuant to Section 6-5A-1 NMSA 1978.

The purpose of the Bioscience Act is to:

- Advise the governor, Economic Development Department, Legislature, and the New Mexico Finance Authority oversight committee
- Make and execute all contracts and other instruments necessary or convenient to the exercise of its powers and duties
- Create avenues of communication between New Mexico and representatives of bioscience industries
- Promote legislation that will further the goals of the authority and development of bioscience industries

- Oversee, produce or cause to have produced promotional literature related to explanation and fulfillment of the authority's goals
- Identify science and technology trends that are significant to bioscience enterprises and act as a clearinghouse for bioscience enterprise issues and information
- Coordinate and expedite the involvement of the state executive branch's bioscience related development effort
- Perform or cause to be performed environmental, transportation, communication, land use and other technical studies necessary or advisable for bioscience projects or programs; and
- Actively recruit industries and establish programs that will result in the location and relocation of new bioscience industries in the state

The 12 voting member Bioscience Authority Board of Directors is composed of the following:

1. Two representatives of the University of New Mexico Health Sciences Center
2. Two representatives of New Mexico State University
3. One representative of the New Mexico Institute of Mining and Technology
4. Secretary of Economic Development or their designees
5. Six members of the public who have experience working in bioscience

The effective date of this bill is July 1, 2020.

FISCAL IMPLICATIONS

The appropriation of \$50 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall NOT revert to the general fund.

Continuing Appropriations language

The bill creates a new non-reverting fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for new created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

The Bioscience Authority is formed pursuant to the Nonprofit Corporation Act.

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 is appropriated to the authority for the purposes of carrying out the provisions of the Bioscience Development Act. Money in the fund shall not revert at the end of a fiscal year and can be used in subsequent fiscal years for the purpose of implementing the Bioscience Development Act.

The New Mexico BioScience Authority provided the following:

In January of 2019 the interim Science, Technology and Telecommunications Committee unanimously endorsed funding the NMBSA's Bioscience Development Fund in a range from \$25 million to \$50 million. A third party firm, Econsult Solutions, Inc. assessed New Mexico for the NMBSA determined and recommended that to establish a vibrant bioscience industry, a \$25 million to \$50 million Direct Investment Fund (DIF) is critical.

If funded the appropriation will be used as a professionally managed DIF to invest in startup New Mexico bioscience companies. New Mexico has all of the foundational elements to build a large and robust bioscience industry (university and public sector research, tech transfer offices, large number of patents, entrepreneurial community, existing businesses and an overseeing authority, i.e. the NMBSA), but its largest hurdle is lack of financing. If funded, the fund will be used to invest in early stage New Mexico based bioscience companies or with their series A, B or subsequent fundraising. It will also be used with recruitment of bioscience companies that are looking to relocate to New Mexico. Any investment for the fund will be done with a 2:1 match with a Limited Partner(s): NMBSA DIF Ratio. A New Mexico Company will be defined as a business with its principal office and a majority of its full-time employees located in New Mexico, or in case of a limited partnership, a business with its principal place of business and 80 percent of its assets located in New Mexico.

In all cases, the invested funds will give the NMBSA an equity position in the company and the returns will be used for future fund and sustainability formation.

SIGNIFICANT ISSUES

The New Mexico BioScience Authority provided the following:

Significant issues related to use of public-private funding in investment into bioscience companies were addressed in the enabling legislation (Senate Bill 478, 2017 regular session) creating the NMBSA, New Mexico's first public-private partnership.

The Economic Development Department provided the following:

The Technology Research Collaborative (TRC) board in the Economic Development Department is directly affected by this bill. The TRC broadly focuses on technology initiatives in bioscience, cybersecurity, photonics, aerospace, and clean technologies. The TRC directly funds companies that are actively transitioning from research and development to product commercialization.

The request for \$50 million for the fund will be duplicative with the efforts that the State Investment Council (SIC) and their recent decision to increase the amount of its investment and an endowment fund of \$26 billion in New Mexico based businesses, startup companies, and private equity funds that invests in the state.

The NMBSA is not equipped to make investment decisions. The lack of access to capital will be remediated by an influx of funding from the SIC, which will ensure that startups including bioscience startups in New Mexico have more access to capital. The SIC expects to make private equity program commitments of \$75 million to \$125 million in the 2020 calendar year.

The NMBSA is a public-private partnership group that should include in the bill the need for a private match in capital of at least 50 percent if they are funded via the state to invest in an endowment fund.

ADMINISTRATIVE IMPLICATIONS

The New Mexico BioScience Authority provided the following:

The New Mexico Bioscience Authority will be charged with identifying and hiring the financial manager and General Partner of the fund. The Board of Directors of the NMBSA will have the responsibility to hire, monitor and replace the General partner as appropriate.

OTHER SUBSTANTIVE ISSUES

The Economic Development Department provided the following:

Duplicative with the efforts made by the SIC to increase access to capital for all startups in New Mexico, including biosciences.

ALTERNATIVES

The funding required to fully implement SB61 could be utilized to support and leverage the existing efforts that are already completing the activities suggested by the bill. The scope of and funding for existing efforts could readily be expanded without the duplication that is created in SB61. Existing state supported organizations and public-private partnerships such as the TRC and the New Mexico Partnership could collaborate more closely with or contract with organizations like NMBIO and the BioScience Center to grow the bioscience sector in the state. These collaborations leverage existing resources and are likely less costly than the formation of the Bioscience Authority and do not duplicate efforts or requests for resources.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The New Mexico BioScience Authority provided the following:

If the bill is not enacted, New Mexico will suffer with regards to diversifying our economy with high paying, green jobs in a sustainable industry. The NMBSA will be at a major disadvantage with fulfilling its mission as the state's authority in biosciences, as well as being one of Governor Lujan Grisham's Centers of Excellence. In the enacting legislation that was passed and signed in 2017, one of the NMBSA's mandates is to create programs to expand bioscience economic opportunities with New Mexico, including potential means of providing financial assistance and incentives for bioscience industries and facilities. If the bill is not enacted it would mean slower growth of the bioscience industry, fewer jobs, a smaller and less diverse economy and a shallower tax base.

The Economic Development Department provided the following:

The consequence of not enacting this bill will be minimal as the NMBSA, unlike many groups, has the advantage of being a private-public entity that can receive money outside of the state legislature.

JM/rl