LFC Requester:	Emily Hilla

AGENCY BILL ANALYSIS - 2026 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: 1/22/2026

Bill Number: SB 33

Check all that apply:

Original X Correction ____

Amendment ____ Substitute ____

Sponsor: Sen. Jeff Steinborn
Sen. Nicole Tobiassen

Short Title: RIGHT TO TRY INDIVIDUALIZED TREATMENTS ACT

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

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	**FY27**		

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	**FY27**	**FY28**		

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	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: SB 33 would enact legislation to provide certain people with life-threatening or severely debilitating illnesses the opportunity to try individualized investigational treatments.

Section 1 provides a short title.

Section 2 provides definitions of terms.

Section 3 authorizes, but does not require, the manufacturer of an investigational drug to make its product available to an eligible patient. It authorizes the manufacturer to either charge the patient for costs associated with the drug or provide it without receiving compensation. This section also authorizes an eligible patient who has given consent to request an individualized investigational treatment from a manufacturer and sets forth the terms for written, informed consent.

Section 4 permits a health plan, third-party administrator or governmental agency to provide coverage for costs of the treatment or the cost of services related to the use of an individualized investigational treatment. SB 33 would not expand coverage currently required by law. The bill does not require a governmental agency to pay for costs associated with the treatment or to require health facilities licensed pursuant to the Health Care Code to expand services offered.

Section 5 states that the patient's heirs are not liable for debt related to treatment if an eligible patient dies while being treated with an investigational treatment.

Section 6 prohibits licensing boards, disciplinary committees, or entities responsible for Medicare certification from taking adverse action against a health care provider's license or Medicare certification based solely upon the provider's recommendation of an investigational treatment.

Section 7 prohibits an official, agent or employee of the state from blocking or attempting to block an eligible patient's access to an individual investigational treatment. The section clarifies that counseling, advice or a recommendation consistent with medical standards of care from a health care provider is not a violation.

Section 8 states that SB 33 does not create a private cause of action against a manufacturer of an individual investigational treatment, or against a person involved in care, so long as the manufacturer or person or entity has acted in good faith and with reasonable care. The

section also clarifies that SB 33 does not affect mandatory health care coverage for participation in clinical trials pursuant to the New Mexico Insurance Code.

FISCAL IMPLICATIONS

None for this office**.**

SIGNIFICANT ISSUES

None noted**.**

PERFORMANCE IMPLICATIONS

None for this office.

ADMINISTRATIVE IMPLICATIONS

The NMDOJ Government Counsel and Accountability Bureau may be needed to assist medical, nursing, and pharmacy boards in promulgating rules and procedures to stay in accordance with the Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 33 is unrelated to other current bills. There are companion federal regulations at 21 CFR Sections 312.300 to –320.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.