LFC Requester:	Emily Hilla

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to **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}

Date Prepared: January 22, 2026 *Check all that apply:*
Bill Number: SB 33 Original X Correction __
Amendment __ Substitute __

Sponsor: Senator Jeff Steinborn and Senator Nicole Tobiassen
Short Right to Try Individualized Treatments Act

Agency Name and Code Number: Regulation and Licensing Department – 420
Person Writing Eden Sayers
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	**FY27**		
N/A	N/A	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	**FY27**	**FY28**		
N/A	N/A	N/A	N/A	N/A

(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	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 33 (SB 33) would create a new "Right to Try Individualized Treatments Act" ("RTTITA") for New Mexico, which providing individuals facing a life-threatening or severely debilitating illness the opportunity to access individualized investigational treatments. Such treatments would include drugs, biological products, or devices that are unique to and produced exclusively for the individual based on their genetic profile, such as individualized gene therapy, antisense oligonucleotides, and individualized neoantigen vaccines. The RTTITA provides that eligible facilities are limited to institutions operating under a federal-wide assurance for the protection of human subjects, in accordance with regulations promulgated by the federal Department of Health and Human Services.

Section 2 of SB 33 provides several definitions that serve as foundational concepts necessary for interpreting the RTTITA's provisions, including definitions for "eligible facility," "eligible patient," "individualized investigational treatment," "life-threatening illness," "manufacturer," and "severely debilitating illness."

Section 3 authorizes manufacturers to provide individualized investigational treatments to eligible patients within eligible facilities, provided the facility complies with all applicable federal assurance laws. Eligible patients may request such treatments after giving written, informed consent, which must include detailed information about the patient's condition, current treatment options, and a realistic understanding of potential outcomes and risks, including the possibility of death. Manufacturers may choose to offer the treatment at no cost or require payment for manufacturing-related expenses. The consent must be signed by the patient or an authorized representative, verified by the patient's physician and a witness, and must acknowledge that insurers or health care providers are not obligated to cover resulting care costs, hospice eligibility may be affected, and the patient assumes full financial responsibility unless a contract states otherwise.

Section 4 clarifies that while a health plan, third-party administrator, or governmental agency may choose to cover the costs of an individualized investigational treatment or related services under RTTITA, they are not required to do so. The RTTITA does not expand any insurer's coverage obligations under existing state or federal law, including the Health Care Purchasing Act or the New Mexico Insurance Code. It also does not obligate governmental agencies to fund any part of the treatment or care, nor does it compel licensed health facilities to offer new or additional services unless the facility explicitly agrees to provide them

Section 5 provides that if an eligible patient dies during treatment with an individualized investigational therapy, their heirs are not liable for any related debts or insurance issues.

Section 6 creates protection for health care providers from professional or Medicare related disciplinary actions solely for recommending individualized investigational treatments to eligible patients.

Section 7 prohibits state officials, employees, or agents from blocking an eligible patient's access to an individualized investigational treatment but allows health care providers to offer counseling

or recommendations consistent with medical standards of care.

Section 8 clarifies that the RTTITA does not create a private right of action against manufacturers or others involved in the care of eligible patients, provided they act in good faith and exercise reasonable care. It also does not affect existing requirements for mandatory health care coverage related to clinical trial participation under the New Mexico Insurance Code.

FISCAL IMPLICATIONS

No fiscal or significant operational impact on the Regulation and Licensing Department (RLD) is anticipated if SB 33 is enacted.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

While SB 33 does not create new administrative duties for the Regulation and Licensing Department (RLD), Section 6 may require health-related boards under the RLD's jurisdiction such as the Boards of Pharmacy, Counseling and Therapy, Psychology, and others to review and potentially update internal policies, rules, or disciplinary procedures. This would ensure alignment with the Act's provision prohibiting disciplinary action against a health care provider solely for recommending access to an individualized investigational treatment. The RLD boards would need to interpret and apply this limitation when evaluating complaints or disciplinary cases related to such recommendations. However, the limitation is narrow as it applies only when the recommendation itself is the sole basis for action and does not shield licensees from discipline for other violations of professional standards. Any administrative burden created by the enactment of SB 33 to the RLD or its administratively attached boards and commissions is expected to be minimal.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS