

LFC Requester:

Emily Hilla

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) 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, an amendment, a substitute or a correction of a previous bill}***Date Prepared:** 1-22-2026*Check all that apply:***Bill Number:** SB33Original ☒ Correction ☐Amendment ☐ Substitute ☐**Sponsor:** Jeff Steinborn/Nicole Tobiassen**Agency Name  
and Code**Office of Superintendent of  
Insurance-440**Number:****Person Writing**Viara Ianakieva**Short**RIGHT TO TRY**Title:**INDIVIDUALIZED  
TREATMENT ACT**Phone:** 505-508-9073 : m.gov**Email** Viara.Ianakieva@osi.n**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
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Senate Bill 33 (SB33) creates the “Right to Try Individualized Treatments Act” (Act). The Act authorizes the use of individualized investigational treatment, including personalized drugs, biologics, or devices made specifically for a patient, for life-threatening or severely debilitating illness, based on a patient’s genetic profile. There is a requirement for informed written consent that includes the assessment of risks.

Eligible patients must have a life-threatening or severely debilitating illness, have considered all other approved treatment options, and have received a recommendation from the patient’s physician for an individualized investigational treatment.

A manufacturer may provide treatment free of charge or require an eligible patient to pay the costs of manufacture. A health insurance provider may provide coverage for the cost of treatment, but the act does not expand coverage required of an insurer under current law or require any government agency to pay costs associated with treatment.

Liability may extend to a patient’s estate for outstanding costs of treatment but will not extend to a patient’s family members. There is no private cause of action established in the Act. The Act limits the liability of manufacturers for individualized treatment.

#### **FISCAL IMPLICATIONS**

At this time, the Insurance Code requires individual, and group plans to provide coverage of patient costs incurred in clinical trials only. SB33 does not impact these provisions. It also does not require coverage for individualized investigational treatments as it stands and will not trigger defrayal. However, if coverage were mandated by statute, the state might be obligated to defray the cost of individualized treatment. These costs could be significant, depending on the nature of the treatment.

#### **SIGNIFICANT ISSUES**

This proposed legislation does not require coverage for individualized investigational treatments. As a result, carriers may deny coverage even when such treatment is prescribed by a physician. It is also unclear whether there is any expectation for OSI to enforce this provision. Based on the current language, OSI would not have the authority to overturn the denial if a complaint is filed.

#### **PERFORMANCE IMPLICATIONS**

None.

#### **ADMINISTRATIVE IMPLICATIONS**

None.

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

None.

**TECHNICAL ISSUES**

None.

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

None.

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

None.

**AMENDMENTS**

None.