

LFC Requester:	Emily Hilla
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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: 1/9/26 **Bill Number:** SB0033 **Original** ☒ **Amendment** ☐ **Substitute** ☐

Short Title: RIGHT TO TRY INDIVIDUALIZED TREATMENTS ACT

Sponsor: Sen. Steinborn & Tobiassen

Name and Code Number: HCA 630

Person Writing: Keenan Ryan

Phone: 505.396.0223 **Email:** keenan.ryan@hca.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
\$0.0	\$0.0	NA	NA

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
\$0.0	\$0.0	\$0.0	NA	NA

(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	\$0.0	\$0.0	\$0.0	\$0.0	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB2649 establishes a legal framework in New Mexico allowing certain seriously ill patients to access highly personalized investigational medical treatments that are not approved by the U.S. Food and Drug Administration. It defines key terms, including “eligible patients,” who must have a life-threatening or severely debilitating illness, have exhausted approved treatment options, and receive a physician’s recommendation for an individualized investigational treatment based on the patient’s genetic or molecular profile. The bill also defines eligible facilities, manufacturers, and the types of individualized treatments covered, such as personalized gene therapies and vaccines.

The act authorizes manufacturers to provide these individualized investigational treatments to eligible patients at qualifying facilities, either at no cost or by charging the patient for manufacturing-related expenses. Patients must provide detailed written informed consent acknowledging the experimental nature of the treatment, potential risks (including death), financial responsibility, and possible impacts on insurance or hospice eligibility. The bill clarifies that insurers and government agencies may, but are not required to, cover the costs of these treatments or related services, and it does not expand existing insurance coverage mandates or require health care facilities to provide new services.

Finally, the bill includes protections and limitations on liability. Health care providers are shielded from professional discipline solely for recommending access to an individualized investigational treatment, and state officials are prohibited from blocking patient access. Manufacturers and providers are granted civil liability protections when acting in good faith and with reasonable care, and no new private cause of action is created. The act also ensures that a deceased patient’s heirs are not liable for treatment-related debts and preserves existing requirements for insurance coverage of participation in clinical trials.

FISCAL IMPLICATIONS

Medicaid already covers the cost associated with qualified clinic trials. Cost under qualified clinical trials is assumed to already be in the budget. Costs associated with non-qualified trials cannot be covered by Medicaid.

State Health Benefits (SHB): Because the bill does not require coverage of individualized investigational treatment, the bill is not anticipated to have an operating budget impact on SHB.

SIGNIFICANT ISSUES

Under federal law Medicaid members have the right to request a fair hearing for denied services. Fair hearings are performed by an administrative law judge who is employed by the state. In instance where an intervention is deemed not to meet Medicaid's standard of medical necessity, but the member requests a fair hear arguing right to try, the “prohibited acts” (section 7 of the bill) could be misconstrued as requiring Medicaid to cover the intervention. This risk may be solved by expressly including Medicaid in Section 4(B)(1) and (2) as follows:

B. The Right to Try Individualized Treatments Act does not:

(1) expand coverage required of an insurer pursuant to the Health Care Purchasing Act, the New Mexico Insurance Code or other applicable state or federal law, including Medicaid;

(2) require any governmental agency, including the Medicaid program, to pay costs associated with the use, care or treatment of an eligible patient with an individualized investigational treatment;

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

SHB: SB 2649 does not require health plans, third-party administrators or governmental agencies to provide coverage for services related to the individualized investigational treatment. Thus, SHB does not anticipate any administrative implications.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS