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## FISCAL IMPACT REPORT

**SPONSOR** Senate Finance Committee **LAST UPDATED** 3/6/2025  
**ORIGINAL DATE** 2/1/2025  
**BILL** CS/Senate Bill  
**SHORT TITLE** Investment in Bioscience Companies **NUMBER** 119/SFCS/aSFl#1  
**ANALYST** Fischer

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
State Investment Council (SIC)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

## SUMMARY

### Synopsis of Senate Floor Amendment #1 to Senate Bill 119

Senate Floor Amendment #1 to Senate Bill 119 (SB119) adds two new definitions. The first is a definition for a “co-investing organization” to mean a person principally engaged in holding, managing and investing securities, including a venture capital firm, a growth equity firm, a private equity firm and an angel investment firm. The second definition is for “immediate family,” which means persons related by blood or marriage, as well as stepchildren, foster children, adopted children, or persons who live in the same residence and maintain a single economic unit.

The amendment provides further restrictions, such that no company can receive Bioscience Authority investment if it has employees related to people on the authority’s board or the immediate family of board members. Companies receiving investment also cannot hire anyone from the authority’s board or the board’s immediate family, nor an authority employee or their immediate family.

### Synopsis of SFC Substitute for Senate Bill 119

The Senate Finance Committee substitute for Senate Bill 119 (SB119) amends the existing state

Bioscience Development Act. The bill changes current statute to make the bioscience development fund nonreverting and clarifies that all earnings on investments made by the Bioscience Authority will be deposited into the fund.

Other amendments to the Bioscience Development Act add several new guardrails to the process by which the New Mexico Bioscience Authority invests in businesses. The bill calls for public annual reporting by the Bioscience Authority. It limits investments to New Mexico businesses or businesses that agree to relocate to New Mexico for at least five years. Both types of businesses must maintain at least five employees in New Mexico with minimum median salaries of \$60 thousand.

The Bioscience Authority is explicitly tasked with assessing a business before investment based on market opportunity, financial stability of the business, expertise and experience of its officers, the business's plan, its competitive assets, its exit strategy, projected economic benefits over five years, and projected social benefits. The bill also outlines specific milestones that an invested business must meet before funds are disbursed, though the types of milestones are broad and may be defined by the authority.

The bill requires investments by the Bioscience Authority be made alongside a co-investing organization, selected through a competitive process in consultation with the University of New Mexico. The bill requires the co-investor to have at least five years of experience investing in bioscience companies or 10 years of experience investing in start-ups. The bill also requires that the co-investor be the lead, with the Bioscience Authority putting forward no more than one-third of the total investment over a year.

The bill provides for clawbacks when Bioscience Authority investment businesses do not meet the contractual obligations of the investment and provide for the assurance or recoupment of benefits in the case of acquisition, relocation, bankruptcy, or liquidation of an investment business. The bill also clarifies that if a business cannot meet the contractual obligations of the bioscience investment, it can reimburse the amount owed back to the authority in stock, but only if the value of the stock is equal or greater in value than the amount the business would otherwise need to compensate the state.

The bill restricts entities receiving investments or other benefits from the Bioscience Authority from (1) employing individuals related to authority board members and (2) hiring former board members or authority employees within one year of their departure. Under the bill, violating these restrictions would be a misdemeanor.

The effective date of this bill is July 1, 2025.

## **FISCAL IMPLICATIONS**

The Bioscience Authority is funded as a research and public services project at the University of New Mexico, and the House version of 2025 General Appropriation Act includes a recurring general fund budget of \$325.2 thousand. The provisions of SB119 generally limit how the authority invests and should not significantly impact its operating budget. The GAA as adopted by the House also includes a \$6 million special appropriation to the Economic Development Department for the bioscience development fund, contingent on enacting SB119 and another \$1 million special appropriation to UNM for the authority.

## SIGNIFICANT ISSUES

The bill adds definitions of a New Mexico business and a portfolio business of the fund. Under the new definition, New Mexico businesses are (1) an LLC or corporation with its principal office and the majority of full-time employees in New Mexico, or (2) a limited partnership with New Mexico as its principal place of business and the location of at least 80 percent of its assets.

The State Investment Council (SIC) notes the Bioscience Authority is one of several existing funds and investors available to New Mexico companies, including SIC's \$900 million New Mexico Private Equity Investment Programs and the several local and national venture capital funds (VCs) that it has funded to make such investments; the New Mexico Finance Authority's (NMFA) relatively new \$50 million venture capital program, which includes VCs and impact investment managers; the state small business credit initiative (SSBCI) which, as of the end of 2024, has approximately \$50 million to be dedicated in the next several years to VCs and impact managers selected by NMFA; and the Economic Development Department. SIC further notes its program includes past commitments to Tramway Ventures, Cottonwood Venture Fund, Anzu Ventures, Builders VC, J2 Ventures, and Lux Ventures, all of which have expertise in the bioscience sector or have made previous commitments to New Mexico biotech start-ups.

The SIC, NMFA and SSBCI programs all have some statutory or rule-based component that allows them to make these investments at a below-market rate, with the expectation that broader economic benefits, like job and industry creation in New Mexico, will replace the lower financial returns. SB119 does not appear to allow for investments with such allowances and expectations, which could make finding strictly market-rate financial opportunities challenging, given the sector-specific and geographically constrained conditions in which it will be invested.

SIC further notes SB119's requirement for invested companies to remain in New Mexico with specific employment and salary conditions may not achieve its intended goals. If a funded company fails, it may be unable to return any significant funds. Conversely, a highly successful company may find it strategically beneficial to relocate because the penalty of repaying the initial investment may not be a strong enough deterrent. This could lead to adverse selection, where only struggling companies willing to accept restrictive investment terms agree to participate, potentially limiting the quality of opportunities for the authority.

## TECHNICAL ISSUES

The New Mexico Attorney General notes the Open Meetings Act, NMSA 1978, Sections (10-15-1 to 10-15-4), does not require a public body to provide reports in a specific manner, and Section 7 could be modified to provide information about where the reports might be found.