

LFC Requester:

Micaela Fischer

## AGENCY BILL ANALYSIS - 2025 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:** 3/11/25

*Check all that apply:*

**Bill Number:** SB119/sfa

Original        Correction         
Amendment X Substitute       

**Sponsor:** Sen. George K. Munoz, Sen.  
Martin Hickey, Rep. Meredith  
A. Dixon

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

**Person Writing  
Analysis:** Aletheia Allen (adding to Rebecca  
Guay's original & subst. analysis)

**Short  
Title:** Investment in Bioscience  
Companies

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### **SECTION II: FISCAL IMPACT**

#### **APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

#### **REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(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:**

#### **The Senate floor amendments:**

(1) add definitions to Section 2 (amending NMSA 1978, Section 9-15E-2) for “co-investing organization” (“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”) and “immediate family” (“those persons related by blood or marriage as well as stepchildren, foster children and adopted children or persons who live in the same residence and maintain a single economic unit”), and renumbers accordingly, and

(2) modifies Section 6 (a new section in the Bioscience Development Act) to state (**amendments in bold**) that an entity that has benefited from a contractual or other activity with the authority may not employ someone related to a director **or a member of their immediate family**, and may not hire within one year of the completion of board member’s term of office or the employee’s service with the authority: a director, an employee of the authority, **or a member of a director’s or employee’s immediate family**.

#### **Original/Prior Summaries:**

This bill introduces amendments to the “Bioscience Development Act,” NMSA 1978, Section 9-15E-1 to -8 (the “Act”) and three new sections to the Act. The amendments include definitions of the new terms “New Mexico business” and “portfolio business,” an update that prohibits an unexpended or unencumbered balance in the bioscience development fund from reverting to the general fund, provides an expansion of the source of monies received to include “all earnings on investments made by the authority,” and clarifies reporting requirements to the governor and the inclusion of the report on the authority’s website.

New language would permit the authority to invest in certain bioscience businesses that meet certain requirements and require the authority to assess such businesses based on market opportunity, financial stability, expertise and experience, a thorough business plan and strategy, competitive (intellectual and physical) assets, an exit strategy, projected economic benefits, and projected social benefits. The bill would require the authority to make the investments with a co-investing organization chosen in consultation with the University of New Mexico through a competitive process. The co-investing organization’s officer shall have five years of experience

investing in bioscience, or ten years' experience investing in startups, and the co-investor organization shall be the lead investor.

A contract with a portfolio business shall include provisions that require reimbursement if the business fails to meet its obligation or document the economic benefits to the state that exceed the authority's cost basis. If a sale of the assets occurs, the acquiring entity shall assume the legal obligations of the contract, and if bankruptcy occurs, the authority shall be paid first. If the authority is compensated by the business due to an acquisition, the authority may accept stock in lieu of money payment, upon approval of the state investment council.

An entity that benefits from a contractual arrangement with the authority shall have no employee related to a member of the board of directors and shall not hire a member of the board within one year of the member's tenure on the board. A person knowingly or willingly violating the provisions is "guilty of a fourth-degree felony and shall be sentenced pursuant to provisions of Section 31-18-15-NMSA 1978. An alleged violation of Subsection A of this section may be reported to the attorney general or district attorney for enforcement."

Lastly, the bill would require quarterly reports presented to the board of directors during a regular board meeting and be made publicly available and calls for a twenty-five-million-dollar appropriation from the general fund to the bioscience fund beginning FY2026 and subsequent years, of which remaining balances shall not revert.

The proposed substitutes by the Senate Judiciary Committee require a business to meet either quarterly, semi-quarterly or annual milestones determined on a case-by-case basis based upon the type of investment releasing disbursement funds and includes a list of permissive metrics for those milestones; and removes the appropriation language.

## **FISCAL IMPLICATIONS**

N/A

## **SIGNIFICANT ISSUES**

It is unclear how the bioscience development fund will be funded, since the substitute bill removes the appropriation in Section 8. Consider a financial analysis to determine whether funds derived from other sources mentioned in the bill (i.e., earnings on investments, fees, rents or other charges imposed and collected by the authority) will be sufficient to achieve the purposes of the fund.

The flexibility of salary distribution may be decreased using the metric of median, however, the salaries may be more evenly disbursed.

## **PERFORMANCE IMPLICATIONS**

Allegations of violation of the employment restrictions as drafted may be sent to the attorney general or the district attorney for enforcement. Depending on the number of allegations, this will cause an increase in workload for the department of justice or the district attorney of the jurisdiction.

## **ADMINISTRATIVE IMPLICATIONS**

N/A

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

The Governmental Conduct Act, Section 10-16-4 NMSA 1978, prohibits official acts by public officers or employees for personal gain and provides that a knowing and willing violation is a fourth-degree felony. Similarly, this bill prohibits an entity which has benefited from a contractual activity with the authority from employing a person related to a member of the board of directors **or related to one of their immediate family members (amendment)**, and that the entity shall not hire a member of the board of directors, an employee of the authority, **or a member of a director's or employee's immediate family (amendment)** until after one year following the completion of the board member's tenure.

#### **TECHNICAL ISSUES**

Since the Open Meetings Act, NMSA 1978, §§ 10-15-1 to -4, does not require a public body to provide reports in a specific manner, Section 7 could be modified to provide information about where the reports might be found.

#### **OTHER SUBSTANTIVE ISSUES**

N/A

#### **ALTERNATIVES**

N/A

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

Status quo.

#### **AMENDMENTS**

N/A