

1 SENATE BILL 247

2 56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO ECONOMIC DEVELOPMENT; AMENDING THE BIOSCIENCE
12 DEVELOPMENT ACT; AUTHORIZING INVESTMENT IN BIOSCIENCE
13 COMPANIES; ESTABLISHING REQUIREMENTS; MAKING AN APPROPRIATION.

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 9-15E-2 NMSA 1978 (being Laws 2017,
17 Chapter 134, Section 2) is amended to read:

18 "9-15E-2. DEFINITIONS.--As used in the Bioscience
19 Development Act:

20 A. "authority" means the New Mexico bioscience
21 authority;

22 B. "bioscience" means the scientific areas
23 represented by life sciences and biotechnology that are
24 included in the five industries recognized by the United States
25 department of labor:

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- 1 (1) drugs and pharmaceuticals;
2 (2) medical devices and equipment;
3 (3) research testing and medical laboratories;
4 (4) bioscience-related distribution; and
5 (5) agriculture and chemicals related to
6 bioscience;

7 C. "board of directors" means the board of
8 directors of the authority;

9 D. "financial assistance" means tax incentives,
10 grants, loans and other financial benefits provided for
11 projects to a qualified entity on terms and conditions approved
12 by the authority;

13 E. "portfolio business" means a bioscience business
14 in which the authority has made an investment;

15 [~~E.~~] F. "national laboratories" means Los Alamos
16 national laboratory and Sandia national laboratories; [~~and~~]

17 G. "New Mexico business" means, in the case of a
18 corporation or limited liability company, a business with its
19 principal office and a majority of its full-time employees
20 located in New Mexico or, in the case of a limited partnership,
21 a business with its principal place of business and at least
22 eighty percent of its assets located in New Mexico; and

23 [~~F.~~] H. "research institutions" means the
24 university of New Mexico, New Mexico state university and the
25 New Mexico institute of mining and technology."

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1 SECTION 2. A new section of the Bioscience Development
2 Act is enacted to read:

3 "[NEW MATERIAL] INVESTMENTS--REQUIREMENTS--REIMBURSEMENT
4 OBLIGATIONS.--

5 A. The authority may invest in a bioscience
6 business that:

7 (1) is a New Mexico business and that shall
8 maintain a minimum in-state workforce of five employees with a
9 minimum average annual salary of sixty thousand dollars
10 (\$60,000) as a condition of the investment; or

11 (2) pursuant to a contract with the authority,
12 shall relocate to the state and agree to maintain itself as a
13 New Mexico business for a minimum period of five years as a
14 condition of the investment and maintain a minimum in-state
15 workforce of five employees with a minimum average annual
16 salary of sixty thousand dollars (\$60,000).

17 B. The authority shall assess a bioscience business
18 prior to making an investment decision. An assessment shall
19 include the following assessment factors with scoring weights
20 determined by the authority by rule:

21 (1) the market opportunity presented by the
22 product or service offered by the business;

23 (2) the current financial stability and status
24 of the business;

25 (3) the expertise and experience in bioscience

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1 and business start-ups of the officers of the business;

2 (4) the business' business plan and its
3 strategy to capture or create a market for its product or
4 services;

5 (5) the business' competitive assets,
6 including intellectual and physical properties;

7 (6) the projected economic benefits of the
8 business for New Mexico over the next five years, including
9 projected sales, revenue and the number of in-state employees;
10 and

11 (7) the projected social benefits of the
12 business in accordance with procurement preferences provided in
13 state or federal law.

14 C. Investments made pursuant to this section shall
15 be made with a co-investing organization chosen by the
16 authority in consultation with the university of New Mexico
17 purchasing office through a competitive process; provided that
18 the co-investing organization meets the following requirements:

19 (1) the officer of the co-investing
20 organization with final decision-making authority for a co-
21 investment with the authority shall have a minimum of five
22 years of experience investing in bioscience companies or a
23 minimum of ten years of experience investing in start-up
24 companies; and

25 (2) the authority's investment in a bioscience

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1 business shall be no more than one-third of the combined
2 investment of the authority and a co-investor organization in
3 that business within a twelve-month period.

4 D. An investment contract with a portfolio business
5 shall specify that:

6 (1) if the portfolio business fails to meet
7 its contractual obligations pursuant to this section, it shall
8 either:

9 (a) fully reimburse the authority for
10 the bioscience development fund's cost basis in the portfolio
11 business; or

12 (b) document to the satisfaction of the
13 authority that it has provided economic benefits to the state
14 that exceed the authority's cost basis in the business;

15 (2) in any sale of a majority of the assets or
16 a majority of the voting stock of the business to a single
17 entity or set of affiliated entities, the acquiring entity or
18 set of affiliated entities shall assume the legal obligations
19 of the contract with the authority; and

20 (3) in a bankruptcy proceeding, liquidation or
21 deemed liquidation event for the portfolio business, a claim by
22 the authority shall be paid first.

23 E. When a portfolio business must compensate the
24 authority pursuant to this section due to an acquisition by
25 another entity or a relocation outside of the state, upon

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1 approval of the state investment council, the authority may
2 accept stock in the acquiring entity or in the relocated
3 business in lieu of a cash payment."

4 SECTION 3. APPROPRIATION.--Twenty-five million dollars
5 (\$25,000,000) is appropriated from the general fund to the New
6 Mexico bioscience authority for expenditure in fiscal year 2025
7 and subsequent fiscal years for investments pursuant to the
8 Bioscience Development Act. Any unexpended or unencumbered
9 balance remaining at the end of a fiscal year shall not revert
10 to the general fund.

11 SECTION 4. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2024.