

SB 382

BIOSCIENCE FUND REVERSION & INVESTMENT

Frequently Asked Questions

Are there Clawbacks in SB 382?

No. SB 382 is simple: it enables the co-investment program, puts some parameters on it, and makes the already existing Bioscience Development Fund non-reverting. During rulemaking, additional parameters can be added as regulations.

Bear in mind that NMBSA will be a shareholder, thus it will participate in the checks-and-balances inherent in corporate structure, such as shareholder voting rights to have some say in how management directs the Bioscience company. If NMBSA purchases a large percentage of shares, it may also have the opportunity to receive a seat on the Bioscience company's Board of Directors.

How much money is in the Bioscience Development Fund?

Right now: none. The fund has never been funded. The funding will come through HB 2, and the amount being considered by SFC is \$25M.

How will NMBSA's share of equity be determined?

NMBSA's share of equity will be proportional to the percentage of shares purchased in comparison with the company's current cap table. Stated differently, the \$-per-share ratio of equity granted to NMBSA will be the same as that granted to the private equity partner, thus ensuring fair market value. During rulemaking, procedural details like this can be added as regulations.

How do we protect against conflicts of interest?

The existing Bioscience Development Act already contains restrictions. See §9-15E-4 NMSA 1978. Board Members are subject to the provisions of the Governmental Conduct Act, prohibited from employment with any entity that has benefitted from any NMSBA activity, and must sign a Conflict of Interest statement.

Is the NMSBA subject to any oversight?

Yes. The existing Bioscience Development Act already requires any disbursement from the Bioscience Development Fund to have approval from the Secretary of Finance and Administration and the Secretary of Economic Development. See §9-15E-7(C) NMSA 1978. In addition, NMSBA must report to the Governor and the Legislature annually. See §9-15E-8 NMSA 1978.

