

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR McSorley ORIGINAL DATE 1/18/17
LAST UPDATED _____ HB _____

SHORT TITLE Sex Assault Exam Kit Police Crime Lab SB 7

ANALYST Romero

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
\$1,200.0	\$1,200.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Responses Received From
Office of the State Auditor (OSA)

SUMMARY

Synopsis of Bill

Senate Bill 7 appropriates \$1.2 million from the general fund to the Local Government Division of the Department of Finance and Administration for a municipal police department crime laboratory to process sexual assault examination kits in FY18 and FY19. This funding is contingent upon a municipality with a police department crime laboratory contributing a match of at least \$2 million in each of FY18 and FY19.

On December 6, 2016, the Office of the State Auditor (OSA) released a Special Audit of Untested Sexual Assault Evidence Kits (Kits). The backlog of historically untested Kits are those that were never sent to a lab for DNA testing. A December 2015 inventory revealed that New Mexico had 5,440 historically untested Kits, of which 3,476 were from APD. Some of the Kits were 20 years old.

FISCAL IMPLICATIONS

The appropriation of \$1.2 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 19 shall revert to the general fund.

SIGNIFICANT ISSUES

In 2015, the OSA and the Department of Public Safety (DPS) worked together to coordinate a statewide count of all the backlogged sexual assault evidence Kits in New Mexico. DPS sent letters to law enforcement agencies statewide asking for a tally of untested Kits in their inventory. OSA followed up with the agencies that did not respond to DPS' attempts. OSA reviewed internal controls at the different law enforcement agencies that may have contributed to the backlog. The OSA is working to identify common issues and create best practices to guide policymakers in efforts to prevent another backlog from happening.

According to a press release issued by the OSA dated December 18, 2015, the total number of untested Kits statewide was 5,406, including over 1,000 Kits housed at DPS. DPS estimated in 2016 that, based on productivity calculations, the backlog of cases at the department could be cleared within a four to five year period.

In the 2016 legislative session, \$1.2 million was appropriated to clear the backlogged Kits at the state's crime labs. In the first year alone, DPS estimates it will spend \$975 thousand to hire three additional scientists, purchase equipment, and remodel space. DPS received a \$2 million grant from the U.S. Department of Justice to fund the remaining amount needed to process the backlog. The grant will also provide funding for a case tracking and reporting database, local outreach and training for law enforcement agencies, victim advocacy and community leadership. 1,024 kits have been received to date and DPS expects up to 700 more kits to be submitted for testing. To date, 148 kits have been completed of which 36 had DNA profiles eligible for entry into the DNA criminal database.

To help with DPS' backlog of cases, the Legislature in 2016 authorized \$7.5 million for the new Santa Fe Crime Lab and Evidence Center: a \$500 thousand severance tax bond for plan and design and a \$7 million general obligation bond for the first phase of construction. The current facility is too small to meet the department's needs, putting it at high risk for evidence cross-contamination. Evidence and records are currently housed in five different facilities, creating further inefficiencies. Currently, space being used for forensic analysis does not meet GSD regulations. The \$500 thousand in severance tax bonds authorized by the Legislature were sold in June and the general obligation bond was approved by voters last fall.

Vacancy rates among forensic scientists, which averaged 21 percent in FY16, contribute to backlogs in case work. Unprocessed cases have increased 427 percent over the last four years, from 1,236 cases to 5,462 cases. The biggest backlogs are in DNA and chemistry cases, which have increased 780 percent and 286 percent, respectively, over the last four years. Notably, the DNA backlog includes about 1,000 sexual assault kits. To help better recruit and retain scientists, DPS internally invested \$258 thousand to provide a 10 percent pay increase and increased starting pay 10 percent. However, DPS is still well below the market in pay. Of 26 states surveyed by the State Personnel Office, New Mexico pays \$53.7 thousand compared to the \$60.2 thousand average.

Senate bill 7 will help clear the backlog of Kits not housed at DPS.

IR/sb/al