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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/2016
SPONSOR Maestas **LAST UPDATED** _____ **HB** 230

SHORT TITLE Rape Kit Testing and Analysis **SB** _____

ANALYST Rogers

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
NFI	\$2,300.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	\$2,300.0	NFI	\$2,300.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to proposed appropriation in HB 2, HB 130, HB 131, SB 17

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

Responses not Received From

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 230 appropriates \$2.3 million from the general fund to DPS to process backlogged sexual assault examination kits.

FISCAL IMPLICATIONS

DPS stated that the time frame of the appropriation is not long enough for the department to clear the backlog, which could lead to additional future appropriations. DPS estimates that the project will take just over 3 years to complete at a total cost of \$1.83 million. Costs running past FY17 would need to be built into future DPS operating budgets.

DPS provided the following fiscal analysis for clearing the backlog of kits:

FY17 –\$975.1 thousand:

1. \$305 thousand to expand and remodel existing Santa Fe laboratory facility to accommodate additional staff and equipment. The cost is dependent upon the remodel requirements; however, the department may alternatively lease additional space and remodel that space to accommodate DNA laboratory needs;
2. \$304.7 thousand to purchase DNA casework equipment, workstations, and computers;
3. \$244.6 thousand to create and hire three additional forensic scientists; and
4. \$120.8K thousand to purchase supplies.

FY18 – \$365.5 thousand:

1. \$244.6 thousand for salaries and benefits for three forensic scientists; and
2. \$120.9 thousand to purchase supplies.

FY19 – \$365.5 thousand:

1. \$244.6 thousand for salaries and benefits for three forensic scientists; and
2. \$120.9 thousand to purchase supplies.

FY20 - \$120.5 thousand:

1. \$80.7 thousand for salaries and benefits for three forensic scientists
2. \$39.8 thousand to purchase supplies

Total cost of completion: \$1,826.6 thousand

The LFC recommendation includes the \$111 thousand supplemental appropriation for forensic laboratory cost overruns in FY16. LFC also recommended a \$600 thousand special appropriation to address the rape kit backlog, which DPS did not request. However, the executive recommendation includes a \$1.2 million special appropriation to process pending forensic cases.

SIGNIFICANT ISSUES

DPS estimates there are 1,500 unprocessed rape kits located in evidence vaults at law enforcement agencies around the state. It will take the three DNA forensic scientists dedicated solely to addressing the backlog between four and five years to process the estimated 1,500 rape kits.

According to LFC files, the number of backlogged cases has grown 70 percent since FY10. In FY15, DPS completed an average 20 percent of all cases received within 30 days, which addresses current cases and not those in the backlog. In FY16, the department received \$170 thousand in the base and a \$205 thousand special appropriation to work on clearing the backlog of cases. For FY17, DPS requested \$615.5 thousand in general fund for two additional scientists and their associated overhead costs even though the vacancy rate for forensic scientists is 30 percent and sustain turnover rates of 20 percent. The LFC recommendation includes targeted increases for forensic scientists.

The laboratory facility in Santa Fe is at maximum capacity and would not be able to support three new scientists and the equipment and tools they would need. Locating the scientists at the Las Cruces or Hobbs laboratories is not practical, as all DNA evidence is processed and stored in secured environments in Santa Fe. DPS estimates that based on productivity calculations the backlog of 1,500 cases is expected to be virtually cleared within a four to five year period, all dependent on time to remodel existing facility or leasing a building and hiring forensic scientists. Creating the positions, recruiting and hiring are a relatively straightforward process, but could take between five to nine months because of the demand for forensic scientists. According to the U.S. Bureau of Labor Statistics, the 2014 median income for a forensic scientist was \$55.4 thousand. New Mexico State government's payband midpoint for a forensic scientist I and II is \$54.4 thousand and \$61.4 thousand, respectively -- slightly below the 2014 median. DPS requested the State Personnel Office to include forensic scientists in the FY17 compensation request.

DPS indicates concern the time limitation of one year for the appropriation since it will take at least nine months to hire and remodel or lease a suitable facility. In addition to officer shortages, the department also faces a critical backlog in forensic science cases as a result of vacancies.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to proposed appropriation in HB 2, HB 130, HB 131, SB 17.

OTHER SUBSTANTIVE ISSUES

The Department of Justice in its 2007 survey of law enforcement agencies in the United States found that 26 percent of all backlogged rape kits were in the West. The majority of those backlogged rape kits were in municipal police departments.

End the backlog, a national nonprofit organization in partnership with other nonprofits (e.g., the National Center for Victims of Crime and Human Rights Watch), reports that the size of the backlog of rape kits in 23 states is unknown. The number of backlogged kits in the remaining states ranges from a low of 350 in South Dakota to a high of 20 thousand in Texas. New Mexico is reported as having 5,400 backlogged rape kits, much higher than reported by DPS.

In September 2015, Vice President Biden and U.S. Attorney General Loretta Lynch announced \$41 million in grants to 20 jurisdictions to reduce or eliminate the number of untested sexual assault kits across the country. New Mexico was not one of those grantees.

DPS states that if the backlog of untested DNA evidence kits continues to grow, law enforcement will have longer wait times for results, victims will not have closure in a timely manner, and the citizens of New Mexico will not be protected from the potential identification and apprehension of serial rapists.

The National Institute of Justice reported that its findings in “The 2007 Survey of Law Enforcement Forensic Evidence Processing” suggest that some law enforcement agencies may not fully understand the potential value of forensic evidence in developing new leads in a criminal investigation. For example, police departments cited several reasons for not sending forensic evidence to the lab. Those results are shown in the table below.

Suspect has not been identified	44%
Suspect was adjudicated without forensic evidence testing	24%
Case was dismissed	19%
Officers did not feel evidence was useful to the case	17%
Analysis was not requested by prosecutor	15%
Suspect was identified but not formally charged	12%
Laboratory was not able to produce timely results	11%
Not enough funds for analysis of forensic evidence	9%
Laboratory would not accept forensic evidence because of backlog	6%

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