

LFC Requestor: Self Assigned

2025 LEGISLATIVE SESSION  
AGENCY BILL ANALYSIS

Section I: General

Chamber: House

Category: Bill

Number: 105

Type: Introduced

Date (of THIS analysis): 01/29/2025

Sponsor(s): Andrea Reeb

Short Title: Traffic Offense Video Testimony

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$	\$		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$	\$	\$		

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$	\$	\$	\$		

House Bill 105 seeks to significantly reduce the costs incurred by the Scientific Laboratory staff when traveling to provide testimony in criminal cases across New Mexico. As the state's sole public health laboratory, the Scientific Laboratory supports court systems in all 33 counties. However, travel to and from these courts imposes a substantial burden in terms of both time and expenses.

Currently, staff time spent on travel, case preparation, testimony, and waiting in court is equivalent to one full-time forensic scientist. The estimated cost in staff time alone is:

- **Base salary:** \$79,990 per year
- **Benefits (1.40 multiplier):** \$31,996
- **Total personnel cost:** \$111,986 per year
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In addition to personnel costs, travel-related expenses further strain state resources. Each overnight trip incurs a per diem expense of \$166, adding to the overall financial burden. In addition to these costs, time spent away from conducting analysis in the lab results in slower results and backlogs of specimens.

### **Section III: Relationship to other legislation**

Duplicates: none

Conflicts with: none

Companion to: none

Relates to: none

Duplicates/Relates to an Appropriation in the General Appropriation Act: none

### **Section IV: Narrative**

#### **1. BILL SUMMARY**

##### a) Synopsis

HB105 adds a new section to the Implied Consent Act:

Section 1 describes video procedure by stating, "if a party subpoenas an analyst or toxicologist to testify at a court proceeding for any purpose, the analyst or toxicologist may appear by interactive video. An interactive video appearance shall provide a full and meaningful opportunity to question and cross-examine the witness in plain sight and clear hearing of the judge, the jury, all parties and counsel, with the witness able to clearly see and hear the proceeding."

Section 2 adds another new provision:

C. "If a laboratory analyst who performed a chemical test or a toxicologist from the laboratory where the test was performed who will testify as an expert on the results of the chemical testing is subpoenaed to testify at a court proceeding about chemical testing that was performed pursuant to this section, the defendant shall be deemed to have given consent to the analyst's or toxicologist's appearance by means of interactive video."

Is this an amendment or substitution?  Yes  No

Is there an emergency clause?  Yes  No

b) Significant Issues

The US Supreme Court Decision in *Smith vs. Arizona* is being interpreted differently by some attorneys in New Mexico compared to other states. As a result, New Mexico courts may subpoena several toxicology analysts for in person testimony for each case, resulting in 2-4 analysts having to travel for the same case. If this trend continues SLD anticipates an increase in both total time spent traveling to/from court and time waiting to testify. In some circumstances multiple subpoenas are received at once, implicating the same analysts for in-person testimony in different parts of the state. This circumstance can lead to more serious issues like the necessity to prioritize one case over another, disrupting scheduling coordination for the courts, parties, and SLD analysts, and ultimately the individual's right to due process and the prosecution's ability to present expert testimony, which can lead to unwarranted dismissals.

SLD is the sole public health, environmental, and drug laboratory for New Mexico. SLD tests for alcohol and drugs in DWI criminal cases and for autopsy cases. It conducts tests for infectious diseases threatening people, livestock and wildlife, as well as for hazardous materials and pollutants in our water, air, and milk. Over the course of a year, the lab performs an average of over 350,000 tests on nearly 80,000 samples. Time spent traveling to/from court and time waiting to testify is time that cannot otherwise be spent in the laboratory performing these critical functions. HB105 could significantly and positively impact the laboratory's ability to perform critical state functions in a timely manner, which serves the efficiency and functionality of many agencies of the state, including the public. SLD provides testing and services to the following state partners:

- New Mexico Environment Department
- Department of Public Safety
- NM Department of Game and Fish
- All DOH Public Health Offices
- Department of Transportation
- NM Department of Agriculture

SLD provides testing and services to the following non-state partners:

- City, county, tribal, and federal law enforcement
- Office of the Medical Investigator
- City, county, rural, private water systems
- NM Dairies
- Food producers
- Clinical Laboratories and hospital systems
- Veterinary clinics

House Bill 105 proposes allowing video testimony for analysts at the Department of Health's Scientific Laboratory in DUI cases. Currently, Scientific Laboratory employees dedicate significant time and resources to travel for in-person testimony, which reduces

the time available for laboratory work. By allowing for video testimony, analysts would be able to remain in the lab, leading to more efficient use of staff time and resources. This change could result in cost savings related to travel expenses and improve overall efficiency in processing samples, helping to maintain timely forensic analysis while still ensuring the integrity of expert testimony.

Advancements in video testimony technology and its increasing use in legal proceedings, particularly during the COVID-19 pandemic, demonstrate remote testimony can be conducted effectively without compromising a defendant's rights. Courts in New Mexico and across the U.S. have successfully utilized Zoom and other video conferencing platforms for criminal hearings, suggesting video testimony for laboratory analysts could be a viable and legally sound alternative to in-person appearances.

## 2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes  No

If yes, describe how.

- Is this proposal related to the NMDOH Strategic Plan?  Yes  No

**Goal 1:** We expand equitable access to services for all New Mexicans

**Goal 2:** We ensure safety in New Mexico healthcare environments

**Goal 3:** We improve health status for all New Mexicans

**Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

## 3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?

Yes  No  N/A

- If there is an appropriation, is it included in the LFC Budget Request?

Yes  No  N/A

- Does this bill have a fiscal impact on NMDOH?  Yes  No

## 4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH?  Yes  No

## 5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None

## 6. TECHNICAL ISSUES

Are there technical issues with the bill?  Yes  No

**7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)**

- Will administrative rules need to be updated or new rules written?  Yes  No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)?  Yes  No
- Does this bill conflict with federal grant requirements or associated regulations?  
 Yes  No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs?  Yes  No

**8. DISPARITIES ISSUES**

None

**9. HEALTH IMPACT(S)**

None

**10. ALTERNATIVES**

None

**11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

If House Bill 105 is not enacted, then the testimony procedure for the Scientific Laboratory will remain unchanged, costing New Mexico tens of thousands of dollars annually.

**12. AMENDMENTS**

None