

LFC Requestor: SANCHEZ, Scott

**2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: House

Category: Bill

Number: 567

Type: Introduced

Date (of THIS analysis): 02/24/2025

Sponsor(s): Jimmy G. Mason and Randall T. Pettigrew

Short Title: DWI Saliva Testing

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		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0	N/A	N/A

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	\$ -	715.6	715.6	1,431.0	Recurring	General

	\$ -	\$1,700.0	\$ -	\$1,700.0	Non-recurring	General
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With the implementation of an oral fluid test for drugs in suspected DUI cases, the Scientific Laboratory would need to develop and validate entirely new methodologies beyond those currently in use. Existing methodologies are specific to the matrices collected, meaning current DUI testing methods apply only to blood. As a result, the lab would require three additional FTEs due to the time and expertise needed for developing and validating these new methods.

Additionally, new instrumentation would be necessary to accommodate the increased casework from incorporating oral fluid testing. At a minimum, one screening instrument and one confirmatory instrument would be required. Mass spectrometers—the gold standard in forensic toxicology—would be needed: one for screening and one for confirmatory testing.

Finally, while this bill projects a three-year operating budget impact, the time required to establish a statewide pilot program, develop and validate testing methods, train officers for roadside sample collection, and prepare toxicology staff for testimony on oral fluid testing aligns more closely with a five-year timeframe. This assumes no other modifications to the work performed by the Toxicology Bureau of the Scientific Laboratory during that period.

PS&EB	
Forensic Scientist 1 - Pay band 75 - midpoint of $\$38.46 \times 2080 + 1.36 = \$108,795.65$ annual salary plus benefits	\$ 108,795
Forensic Scientist 2 - Pay band 80 - midpoint of $\$42.69 \times 2080 + 1.36 = \$120,761.47$ annual salary plus benefits	\$ 120,761
Forensic Scientist 2 - Pay band 80 - midpoint of $\$42.69 \times 2080 + 1.36 = \$120,761.47$ annual salary plus benefits	\$ 120,761
Office Setup	
Computer Setup @ \$2,000 per FTE x 3	\$ 6,000
Desk phone and service \$1,500, email \$102 x 3 FTE	\$ 4,806
IT Costs - subscriptions, help desk etc. @ 1,500 annually per FTE	\$ 4,500
Saliva Collection Kit Supplies	
Estimated annual supply costs	\$ 150,000
Laboratory Supplies	
Estimated additional annual reagent costs	\$ 200,000
Total estimated recurring annual impact	\$ 715,623
Laboratory Instrumentation	
Estimated Analytical Instrumentation Costs	\$ 1,400,000
Laboratory Information Management System Upgrade	\$ 300,000
Total estimated non-recurring annual impact	\$1,700,000

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

House Bill 567 (HB567) aims to include oral fluid as a testing matrix for drug confirmation in DUI casework. Additionally, HB567 aims to include language specifying “controlled substance” presence in toxicology samples would equate to being under the influence of drugs.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

- Most oral fluid testing performed in DUI casework in the United States is used in a screening capacity, the results of which would not be included in the official toxicology report issued by the Scientific Laboratory.
- A road-side screening test would be performed by officers throughout the state and not be controlled by DOH or the Scientific Laboratory, putting the onus on the Department of Transportation and/or the Department of Public Safety. Any results from these road-side screening tests would not influence the testing performed by the Scientific Laboratory.
- Should an oral fluid confirmatory testing program be implemented by the Scientific Laboratory, there would likely be a significant increase in the number of cases handled by the Scientific Laboratory. This will result in slower result times as analysts will be required to appear at additional court cases.
- This bill attempts to equate presence of a controlled substance in a person’s body with impairment. There is no concrete scientific evidence to support this assumption, and, in fact, forensic toxicologists are specifically trained to not equate presence of a substance alone with impairment.

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

There would be an expected increase in costs of approximately \$3,131. million over the next five years, with a recurring annual cost of \$1,431.0 million. This would cover the cost of three new FTEs in addition to new instrumentation required to perform the testing and maintain turnaround times.

There would be no additional revenue produced from this change.

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 HB567 is not enacted, oral fluid testing will not be added to the matrix for the confirmation of the presence of drugs in DUI cases.

12. AMENDMENTS

None