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FISCAL IMPACT REPORT

SPONSOR: Taylor DATE TYPED: 02/27/03 HB 425/aHJC

SHORT TITLE: DNA Sample Processing SB _____

ANALYST: Fox-Young

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
\$1,000.0			\$0.1 Significant	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

Department of Public Safety (DPS)

Attorney General (AG)

New Mexico Commission on Higher Education (NMCHE)

No Response

Corrections Department (CD)

New Mexico State University (NMSU)

SUMMARY

Synopsis of HJC Amendment

The HJC amendment strikes the physical science institute at New Mexico State University, providing that the Department of Public Safety (DPS) may contract with **an accredited** genetic testing laboratory.

DPS recommends the bill be further amended to specify that any contract laboratories must be accredited to perform forensic analysis.

Synopsis of Original Bill

House Bill 425 appropriates \$1,000.0 from the general fund to the Department of Public Safety (DPS) for expenditure in fiscal years 2003 to 2005 to contract with the genetic testing laboratory

of the physical science institute at New Mexico State University for DNA sample processing.

Unprocessed DNA samples of the Corrections Department (CD), the state crime laboratory and other state and local law enforcement agencies may be processed pursuant to this appropriation.

The bill contains an emergency appropriation.

Significant Issues

The Attorney General (AG) and the Department of Public Safety (DPS) report that the NMSU genetic testing laboratory is not accredited to perform forensic testing of DNA samples. Accreditation is required by the federal DNA Advisory Board. AG indicates that any results obtained during the testing would be subject to challenge during any criminal proceeding and would likely be inadmissible.

DPS notes that

- Because NMSU is not accredited by the National Forensic Sciences Training Center or by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board, any DNA profiles generated at the university would not be accepted for inclusion in the federal or state DNA database.
- The department cannot subcontract with laboratories that are not accredited, as doing so would put the department in violation of DNA Advisory Board Standards. Such a move would jeopardize the department's certification, and make the department ineligible for accreditation, federal funds and inclusion in the federal DNA database program.
- Any forensic contract laboratories must use the same DNA analysis platform as is used in New Mexico crime laboratories. NMSU is not restricted to this platform.
- It is unclear how serological screening of these cases, a significant element of biological evidence analysis, will be performed. Screening is done prior to DNA testing and requires forensic expertise.

FISCAL IMPLICATIONS

The appropriation of \$1,000.0 contained in this bill is a recurring expense. Any unexpended or unencumbered balance remaining at the end of fiscal year 2005 shall revert to the general fund.

A backlog of unprocessed DNA samples is in all of the agencies mentioned in the bill. Any appropriation directed at processing any portion of these samples is a recurring expense, as the state's current resources are insufficient to keep pace with the growing pool of samples.

OTHER SIGNIFICANT ISSUES

The act of earmarking funds for a specific laboratory may have the unintended effect of decreasing efficiency because it limits competition.