

LFC Requester:	Sanchez, Scott
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/29/25 *Check all that apply:*
Bill Number: SB 157 Original Correction
 Amendment Substitute

Sponsor: Sen. Katy M. Duhigg **Agency Name and Code** AOC
Short Title: Seizure of Property by Law Enforcement **Number:** 218
Person Writing Kathleen Sabo
Phone: 505-470-3214 **Email** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 316 amends statutory sections within the Forfeiture Act, Section 31-27-1 NMSA 1978 et. seq, as follows:

- **Section 31-27-11(A) NMSA 1978:** provides that a law enforcement agency shall not directly or indirectly transfer seized property to a federal law enforcement authority or other federal agency unless:
 - (1) the value of the seized property exceeds \$50,000, excluding the potential value of the sale of contraband; and
 - (2) the federal government has filed criminal charges against the owner of the seized property, there is no innocent owner and the seized property is required as evidence in the federal prosecution.

Subsection B permits a law enforcement agency to share information and cooperate with the federal government. Subsection C provides that a law enforcement agency may participate in federal equitable sharing programs, but prohibits equitable sharing money from being accepted unless the owner of the property is convicted in federal court. Subsection D requires a law enforcement agency participating in federal equitable sharing programs to spend money received from a program on drug prevention or awareness programs, including costs associated with conducting law enforcement agency awareness programs.

- **Section 31-27-2 NMSA 1978:** provides that the Forfeiture Act applies and does not apply to specified circumstances and items, except as provided in Section 31-27-11 NMSA 1978.
- **Section 31-27-7 NMSA 1978:** clarifies that when a law enforcement agency in New Mexico seizes property for a federal law enforcement authority as a participant in a federal equitable sharing program, the state acquires provisional title to seized property, except as provided in Section 31-27-11 NMSA 1978. Provides that when a person is convicted of a drug-related crime as provided in the Controlled Substances Act, money obtained by forfeiture proceeds pursuant to Section 30-31-34 NMSA 1978 shall be subject to appropriation by the legislature for drug treatment rehabilitation of minors and adults.

SB 157 provides that the Act's provisions apply to seized and disclaimed property in the possession of a law enforcement agency or the state treasurer on and after the effective date of the Act.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and challenges to the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

1) SB 157 appears to create a narrow exception to the current requirement in Section 31-27-7(C) NMSA 1978 that “proceeds from the sale of forfeited property received by the state from another jurisdiction shall be deposited in the general fund.” Instead, HB 316 requires a law enforcement agency that has accepted equitable sharing money from federal equitable sharing programs, where the owner of the property is convicted in federal court, to spend money received on drug prevention or awareness programs, including costs associated with conducting law enforcement agency awareness programs. Unlike 2023’s HB 316, SB 157 requires, under Section 31-27-7(B)(4) NMSA 1978, that forfeited currency and all proceeds of the sale of forfeited or abandoned property shall be distributed as specified, except that when a person is convicted of a drug-related crime as provided in the Controlled Substances Act, money obtained by forfeiture proceeds shall be subject to appropriation by the legislature for drug treatment rehabilitation of minors and adults, after expenses incurred by a law enforcement agency or the state treasurer, and not be deposited in the general fund.

SB 157 amends Section 31-27-11(A) NMSA 1978 to prohibit a law enforcement agency from directly or indirectly transferring seized property to a federal law enforcement authority or other federal agency unless the value of the seized property exceeds \$50,000 and the federal government has filed criminal charges against the owner of the seized property, there is no innocent owner and the seized property is required as evidence in the federal prosecution. The SB 157 amendment to Section 31-27-11(C) NMSA 1978, however, permits law enforcement agency acceptance of equitable sharing money when the owner of the property is convicted in federal court. There is no requirement that there be no innocent owner.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS