

LFC Requester:

Sanchez

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: 01/28/25

Check all that apply:

Bill Number: SB 157Original Correction Amendment Substitute

Sponsor: Duhigg and De La Cruz
 Short Title: SEIZURE OF PROPERTY BY LAW ENFORCEMENT

Agency Name

and Code

OSA 308

Number:

Person Writing

David CraigPhone: 5054699911Email David.Craig@osa.nm.**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Senate Bill 157 (SB 157) amends provisions of the Forfeiture Act (the Act) to allow for forfeiture proceeds related to the Controlled Substances Act to be appropriated by the legislature for drug treatment rehabilitation. Among other changes to provisions in law, SB 157 also amends provisions of the Act to allow law enforcement agencies to participate in equitable sharing programs and directs those funds to be spent on drug prevention or awareness programs. SB157 does not contain an appropriation.

FISCAL IMPLICATIONS

OSA does not have information on the amounts of funds seized by local law enforcement agencies and cannot calculate a financial impact.

The state currently is implementing opioid use disorder interventions and remediation steps. In 2023 the Legislature appropriated \$21 million for these efforts. In 2024, the Legislature created the opioid settlement restricted fund and the opioid crisis recovery fund (6-4-28 NMSA 1978). Under these statutes, all funds allocated to the state through the opioid settlements are placed in the opioid settlement restricted fund. According to the New Mexico Department of Justice (DOJ), the state had approximately \$96.6 million to distribute to entities at the end of state fiscal year 2024 (FY24). Information on the available use of those funds and the Office of the State Auditor's oversight responsibilities are available on the communications section of our website: osa.nm.gov/communications/. The provisions of SB 157 would work in tandem with these recent efforts to help curb the rise of opioid use disorder in our communities and state.

SIGNIFICANT ISSUES

SB 157 removes a requirement that the crime from which the assets being forfeited be linked to multiple states and be sufficiently complex to justify the transfer of the property, instead replacing it with language that clarifies that the federal government must have brought charges, that there is no innocent owner and that the seized property is required as evidence in order to transfer seized assets to the federal government.

SB157 indicates funds that are subject to forfeiture by the Controlled Substances Act would be reverted to the state General Fund and then appropriated by the Legislature for drug treatment rehabilitation. It is unclear what party is responsible for tracking this new earmark. OSA presumes the Department of Finance and Administration (DFA), as the government entity responsible for tracking reversions would be the party responsible for certifying what amounts have been reverted and available for appropriation. However, in the absence of any additional resources being provided to DFA, it is most likely this will take the form of self-reporting from local law enforcement agencies. Any expectation that a statewide oversight entity for ensuring forfeited amounts are reverted would be created would be made in error. The OSA could not identify any statewide tracking or oversight efforts of seizure and forfeitures of assets by local

law enforcement entities when analyzing SB 157.

SB 157 also allows for information sharing and cooperation with the federal government, requires a conviction in federal court prior to participation in federal equitable sharing programs, and requires any equitable sharing program money obtained through federal drug enforcement be spent on drug prevention or awareness programs by the local law enforcement entity.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS