

<b>LFC Requester:</b>	<b>Anderson, Ginger</b>
-----------------------	-------------------------

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.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}*

Check all that apply:  
**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 2/1/24  
**Bill No:** SB 237

**Sponsor:** Sen. Greg Nibert  
**Short Title:** Revised Uniform Unclaimed Property Act

**Agency Name and Code**    AOC 218  
**Number:** \_\_\_\_\_  
**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
FY24	FY25		
None	None	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 150, SB 17, SB 90 and SB 105, also amending Section 7-1-2 NMSA 1978.

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

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: SB 237 repeals the existing Uniform Unclaimed Property Act, Sections 7-8A-1 through 7-8A-31 NMSA 1978 and enacts the Revised Uniform Unclaimed Property Act (RUPPA), an update to the prior 1995 revision.

SB 237 impacts the courts in the following manner:

- **Section 7-8B-201 NMSA 1978:** provides that property held by a court, including property received as proceeds of a class action, is presumed abandoned if it is unclaimed by the apparent owner one year after the property becomes distributable.
- **Section 7-8B-609 NMSA 1978:** provides that when an administrator returns or destroys or otherwise disposes of property determined to have no commercial value or the cost of disposal will exceed the value, no action or proceeding may be commenced against the state, an agency of the state, the administrator, another officer, employee or agent of the state, or a holder for or because of an act of the administrator pursuant to this section, except for intentional misconduct or malfeasance.
- **Section 7-8B-610 NMSA 1978:** provides that expiration, before, on or after the effective date of the RUUPA, of a period of limitation on an owner's right to receive or recover property does not prevent the property from being presumed abandoned or affect the duty of a holder pursuant to the RUUPA to file a report or pay or deliver property to the administrator. SB 237 provides that the administrator may not commence an action or proceeding to enforce the RUPPA with respect to the reporting, payment or delivery of property more than 10 years after the hold filed a nonfraudulent report pursuant to Section 7-8B-401 NMSA 1978, except that the parties may agree in a record to extend this limitation. SB 237 also provides that the administrator may not commence an action, proceeding or examination with respect to a duty of a holder pursuant to the RUUPA more than 10 years after the duty arose.
- **Section 7-8B-904 NMSA 1978:** provides that if a claim to establish ownership of property is denied, the claimant may file an amended claim with the administrator or commence an action in district court, pursuant to Section 7-8B-906 NMSA 1978.
- **Section 7-8B-905 NMSA 1978:** provides that property held pursuant to the RUUPA by the administrator is subject to a claim for the payment of an enforceable debt the owner owes in this state for: (1) child support arrearages; (2) a civil or criminal fine

or penalty, court costs, a surcharge or restitution imposed by a final court judgment; or (3) state taxes, penalties and interest that have been determined to be delinquent.

- **Section 7-8B-906 NMSA 1978:** provides that a person aggrieved by a decision of the administrator (defined to mean the Taxation and Revenue Department (TRD), the Secretary of TRD or any employee of TRD who exercises authority lawfully delegated to that employee by the secretary), may file an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978, permitting appeal to the district court. SB 237 further provides that a person whose claim has not been acted upon within 90 days after its filing may maintain an original action to establish the claim in the district court for the first judicial district, naming the administrator as a defendant. Under SB 237, if the aggrieved person establishes the claim in an action against the administrator, the court may award reasonable attorney fees to the claimant.
- **Section 7-8B-1002 NMSA 1978:** permits the administrator, at reasonable times and on reasonable notice, to bring an action seeking judicial enforcement of a subpoena requiring a person or agent of a person under examination to make specified records available for examination.
- **Section 7-8B-1004 NMSA 1978:** provides that records obtained, compiled or received, as specified, are required to be produced by the administrator pursuant to an administrative or judicial subpoena or administrative or court order.
- **Section 7-8B-1101 NMSA 1978:** provides that an informal conference held upon request of a putative holder is not a hearing on the matter subject to Section 39-3-1.1 NMSA 1978, permitting appeal to the district court.
- **Section 7-8B-1103 NMSA 1978:** provides that if a claim of a putative holder is denied, the putative holder may then file a new claim with the administrator or maintain an action under Section 7-8B-906 NMSA 1978.
- **Section 7-8B-1104 NMSA 1978:** provides that a claimant aggrieved by a decision of the administrator (defined to mean the Taxation and Revenue Department (TRD), the Secretary of TRD or any employee of TRD who exercises authority lawfully delegated to that employee by the secretary), may file an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978, permitting appeal to the district court. SB 237 further provides that a claimant whose claim has not been acted upon within 90 days after its filing may maintain an original action to establish the claim in the district court for the first judicial district, naming the administrator as a defendant. Under SB 237, if the putative holder establishes the claim in an action against the administrator, the court may award reasonable attorney fees to the claimant.
- **Section 7-8B-1201 NMSA 1978:** provides that if a determination pursuant to Section 7-8B-1012 NMSA 1978 (governing determination of liability for unreported reportable property) becomes final and is not subject to administrative or judicial review, the administrator may commence an action in the district or an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid or undelivered property. SB 237 provides that in action pursuant to Subsection A of this section, if no court in NM has jurisdiction over the defendant, the administrator may commence an action in any court having jurisdiction over the defendant. SB 237 permits the administrator to pursue an action on behalf of NM to recover property subject to the RUUPA but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator.
- **Section 7-8B-1203 NMSA 1978:** permits the Attorney General (AG) to commence an action on behalf of another state or country to enforce in NM the law of the other state or country against a putative holder subject to a claim by the other state or

country, if the other state or country agrees to pay costs, including reasonable attorney fees and expenses, incurred by the AG in the action.

- **Sections 7-8B-1204, 7-8B-1205 and 7-8B-1206 NMSA 1978:** provides for civil penalties to be imposed by the administrator, and waiver of same.
- **Section 7-8B-1302 NMSA 1978:** provides that an apparent owner that believes the compensation the apparent owner has agreed to pay to locate property is unconscionable or the administrator, acting on behalf of an apparent owner, or both, may file an action in district court to reduce the compensation to the maximum amount that is not unconscionable. SB 237 provides that on the final determination of an action filed pursuant to this subsection, the district court may, on application, award the owner its reasonable attorney fees, costs and expenses of litigation.
- **Section 7-8B-1303 NMSA 1978:** permits an agent of an apparent owner, if authorized by the apparent owner, to bring an action against the administrator on behalf of and in the name of the apparent owner.
- **Section 7-8B-1407 NMSA 1978:** requires the administrator and the administrator's agent, if a security breach occurs, to: (1) take action necessary for the holder to understand and minimize the effect of the event and determine its scope; and (2) cooperate with the holder with respect to any notification required by law and a regulatory inquiry, litigation or similar action.
- **Section 7-8B-1408 NMSA 1978:** requires that if a claim is made or action commenced arising out of a security breach relating to confidential information possessed by an administrator's agent, the agent shall indemnify, defend and hold harmless a holder the holder's affiliates, officers, directors, employees and agents, as specified.

SB 237 provides that the provisions of Section 69, enacting Section 7-8B-1009 NMSA 1978 and governing an administrator's contract with another to conduct an examination, apply to contracts entered into on or after January 1, 2026.

SB 237 makes conforming amendments to other statutory sections within various Acts.

The effective date of the Act is January 1, 2026.

## **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 commenced actions and proceedings, and appeals from actions of the administrator. 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) As noted by the Uniform Law Commission, in a statement as to "*Why Your State Should Adopt The Revised Uniform Unclaimed Property Act (2016)*," the RUUPA is the latest revision to the Uniform Unclaimed Property Act, providing necessary updates "that keep up with technological innovation and recognize new forms of property not included in prior versions of the Act." The commission notes the following benefits of RUUPA:
  - The RUUPA clarifies which types of intangible property are covered in the Act.
  - The RUUPA provides specific dormancy periods.
  - The RUUPA expands remedies for holders.

- The RUUPA prioritizes information security.

See *RRUPA – Why Your State Should Adopt.pdf* at <https://www.uniformlaws.org/viewdocument/enactment-kit-63?CommunityKey=4b7c796a-f158-47bc-b5b1-f3f9a6e404fa&tab=librarydocuments>.

- 2) In 2023, HB 165, also enacting the Revised Uniform Unclaimed Property Act, passed both the House and Senate and was sent to the governor. The law was pocket vetoed. See <https://www.nmlegis.gov/Legislation/Legislation?Chamber=H&LegType=B&LegNo=165&year=23>.

### **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**

Conflicts with HB 150, SB 17, SB 90 and SB 105, also amending Section 7-1-2 NMSA 1978.

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

### **AMENDMENTS**