

LFC Requester:

Scott Sanchez

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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 X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 01/24/2024

Bill No: SB167

Sponsor: Sen. P. Woods,
Rep. J. Chatfield

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: PURCHASE NE
CORRECTIONAL
FACILITY

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Senate Bill (“SB”) 167 would appropriate \$54,000,000 from the 2025 general fund to purchase the Northeast New Mexico Correctional Facility (the “Facility”) in Clayton, New Mexico.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.
 Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

None.

SIGNIFICANT ISSUES

- The town of Clayton currently owns the Facility which it leases to the New Mexico Corrections Department (NMCD). This is the final year of the five-year lease. The Facility was constructed in 2007–2008 through the sale of revenue bonds.
- NMCD and GSD want to purchase the Facility, which would require paying off the revenue bonds. Paying off bonds – defeasance -- involves a structured and regulated method subject to certain guidelines and conditions. The Town of Clayton is obligated to follow the prescribed procedures outlined by the relevant authorities and financial institutions holding the bonds. Any deviation from these established processes may result in complications and may not be legally recognized.
- The process of bond defeasance would remove the obligation of the Town to make future interest and principal payments on outstanding bond debt. It is important to note that the defeasance process is complex and subject to legal and regulatory requirements.
- The appraised value of the Facility is \$53,535,000, and the outstanding balance on the bonds as of June 30, 2023, is \$37,060,112. The proposed sale-purchase would generate \$16,474,888 of net proceeds for the Town.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

The bill currently states: “. . . to purchase tuhih. ouhe [sic] northeast New Mexico correctional facility located in Union county and owned by the town of Clayton” Given that “tuhih. ouhe” is not a recognized word or phrase nor a proper noun, this is likely a typo. The structure of the sentence suggests it is probably meant to say “the.”

OTHER SUBSTANTIVE ISSUES

There are operational challenges at the facility, specifically understaffing and ongoing litigation. The bill does not include any provision to address those, and it is unclear what impact, if any, state ownership of the Facility would have on the operational concerns.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

Incorporating the Technical Issues, recommend amending to: “to purchase tuhih. ouhe[the] n[N]ortheast New Mexico c[C]orrectional f[F]acility located in Union c[C]ounty and owned by the t[T]own of Clayton for a price equal to the appraised value of the facility.”