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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Sariñana/Anyanonu</u>	<b>LAST UPDATED</b> <u>2/13/2024</u>
	<b>ORIGINAL DATE</b> <u>1/28/2024</u>
<b>SHORT TITLE</b> <u>Kirtland AFB Land Jurisdiction</u>	<b>BILL NUMBER</b> <u>House Joint Resolution 11</u>
	<b>ANALYST</b> <u>Hanika-Ortiz</u>

### REVENUE\* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Bernalillo County/City of Albuquerque		Indeterminate but minimal gain	Recurring	Local Government Funds			

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

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

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
State/Local Service Agencies		Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund/Other State Funds

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
New Mexico Attorney General (NMAG)  
Office of Military Base Planning

Agency Analysis was Solicited but Not Received From  
Administrative Office of the Courts  
New Mexico Counties

## SUMMARY

### Synopsis of House Joint Resolution 11

House Joint Resolution 11 (HJR11) approves the federal government’s withdrawal of exclusive federal legislative jurisdiction over property known as the enhanced use lease parcel on Kirtland Air Force Base to allow for state-federal joint legislative jurisdiction.

HJR11 says, pursuant to the provisions of Section 19-2-2 NMSA 1978, the Legislature approves the retrocession of exclusive federal legislative jurisdiction to concurrent legislative jurisdiction over real property owned by the United States located in the authorized boundaries of the area on Kirtland Air Force Base known as the “enhanced use lease parcel,” which consists of approximately 70 acres in Section 35, Township 10 North, Range 3 East, in Bernalillo County.

More specifically:

- Section 1 includes a specific, lengthy legal description of the parcel of land in question.
- Section 2 says "concurrent legislative jurisdiction" means: A. the parallel right of both the federal and state government to legislate with respect to such land and persons present or residing on it, subject only to the United States and State constitutional complaints; and B. the vesting in the United States and the State of all rights accorded a sovereign with the broad qualification that such authority is held concurrently over matters, including criminal laws, public powers and tax laws.
- Section 3 says pursuant to Subsection C of Section 19-2-2 NMSA 1978, the transfer of jurisdiction approved in the resolution shall take effect upon the recording of a duly authenticated copy of the jurisdiction retrocession notice and this resolution in the Office of the Bernalillo County clerk.

This joint resolution does not contain an effective date and, as a result, would presumably go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

## **FISCAL IMPLICATIONS**

Under its enhanced use leasing programs, the military leases land on military bases to the private sector for private development. This could mean a new source of tax revenue for the county.

## **SIGNIFICANT ISSUES**

HJR11 seeks to approve concurrent legislative jurisdiction, between the United States and New Mexico, over land on Kirtland Air Force Base known as the “enhanced use lease parcel.”

NMAG provided the following background:

“On March 16, 1954, the United States accepted exclusive jurisdiction over approximately 2,365.47 acres of land, at the request of the State of New Mexico. *See* Letter from Acting Secretary of the Air Force, James H. Douglas, to Governor Edwin L. Mechem, dated March 16, 1954. That assumption of exclusive federal jurisdiction included the approximately seventy acres referenced in House Joint Resolution 11.”

HJR11 is the final step of a process that included multiple steps prior to legislative approval.

Specifically, NMAG notes:

1. The United States must file a notice of intention to relinquish exclusive legislative jurisdiction with the governor (Section 19-2-2(A) NMSA 1978);
2. The governor must “furnish the attorney general with a copy of it and shall request her comments and recommendations” (Section 19-2-2(A) NMSA m1978); and
3. The governor must transmit the notice together with her comments and recommendations as well as the attorney general’s comments and recommendations to the next session of the Legislature (Section 19-2-2(B) NMSA 1978).

NMAG reports that the United States provided the required notice and NMAG provided his recommendations in a letter to the governor dated April 7, 2023 where he noted that: the land is being converted into a commercial area through a lease to a private developer; acknowledged the agreements the federal government has entered into with the City of Albuquerque and Bernalillo County to provide services; and recommended that the notice be transferred to the Legislature at its next session.

## **PERFORMANCE IMPLICATIONS**

If approved, the transfer of jurisdiction would take effect upon the recording of a copy of the jurisdiction retrocession notice and this resolution in the Office of the Bernalillo County clerk.

## **ADMINISTRATIVE IMPLICATIONS**

Concurrent jurisdiction allows the federal and state government to share jurisdiction and enforce both federal and state laws, as well as provide both federal and state services. However, concurrent jurisdiction can also impact state courts if they share legal authority with the federal government to hear certain types of cases.

## **OTHER SUBSTANTIVE ISSUES**

By voting in the affirmative on HJR11, the Legislature agrees that all prerequisites including notices, comments and recommendations for itself, the governor and the NMAG, have been met.

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

NMAG cautions failure to enact HJR11 could pose a challenge to current plans for the land.

AHO/hg/al/rl/ne/al