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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Jones/Townsend/Hemphill/Lord/Terrazas</u>	<b>LAST UPDATED</b> <u>3/8/2023</u>	<b>ORIGINAL DATE</b> <u>3/5/2023</u>
<b>SHORT TITLE</b> <u>Fort Bayard Reservation Annexation</u>	<b>BILL NUMBER</b> <u>House Joint Memorial 8</u>	<b>ANALYST</b> <u>Hanika-Ortiz</u>

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files  
  
Response Received From  
 General Services Department (GSD)

## SUMMARY

### Synopsis of House Joint Memorial 8

House Joint Memorial 8 (HJM8) asks GSD to consent to the annexation of the Fort Bayard Military Reservation by the Village of Santa Clara.

Further, HJM8 resolves the following:

- The Legislature has granted authority to municipalities for the incorporation of contiguous property into the municipality after following statutory annexation procedures, which include adequate notice to landowners and the public;
- Annexation does not grant the municipality ownership over the land, water rights, or other rights appurtenant to the annexed property;
- When federal, state, or county governments own annexed property, municipal ordinances do not apply and property taxes remain abated;
- Except for the Fort Bayard national cemetery, in 1966, the U.S. conveyed to NM the Fort Bayard military reservation in Grant County;
- Annexation of contiguous property obligates and places a burden upon a municipality to provide municipal services to the land annexed;
- The Village of Santa Clara, a NM municipality, is located contiguous to Fort Bayard;
- The Village cemetery contains remains of Fort Bayard soldiers back to 1868;
- The Village has obtained and expended \$3 million from grants and private donations to maintain, conserve and develop the historic Fort Bayard military reservation;
- In 2015, the Village was willing to provide utility and other services to the Fort Bayard military reservation upon annexation and requested the State’s consent to annex part of the historic Fort Bayard military reservation, which was denied by GSD;

- Prior to 2015 and to present time, the Village: provides backup police, fire, and animal control services to the Fort Bayard military reservation; maintains the grounds pursuant to an agreement with GSD; and provides sewer and public water service to entities on the southern boundary of the Fort Bayard military reservation, which infrastructure can be connected to utility lines in the Fort Bayard military reservation, as well as upgraded electric and natural gas service from PNM and NM Gas Company;
- Prior to 2015 and to present time, the Village has maintained and installed buildings and grounds' improvements in the Fort Bayard military reservation, but without annexation, the village cannot adequately protect or maintain those improvements;
- In December 2019, the Village executed a 99 year lease from the state of the Fort Bayard military reservation; and
- Since December 2019, the Village has accomplished the following: installed steps, interior handrails, and federal ADA-compliant ramps; removed asbestos and initiated electrical upgrades at the museum; repaired windows and doors at the theater; completed the pre-design for future occupation by the U.S. Forest Service of four buildings; and obtained the services of AmeriCorps and NM Youth Conservation Corps volunteers, whose achievements include:
  - Painting and boarding up 250 windows and 75 doors to protect from vandalism;
  - Removing lead paint and painting the small houses at the entrance;
  - Installing a nationally sanctioned disk golf course;
  - Adding a federal ADA compliant restroom to the New Deal theater;
  - Cleaning out buildings of trash, debris, and old furnishings; and
  - Clearing the grounds of fire hazards.

## FISCAL IMPLICATIONS

The request for approval of an annexation of the Fort Bayard property does not present an immediate fiscal impact. However, GSD explains that HJM8 asks it to approve something that it might not otherwise approve as a matter of discretion and prudence. A protracted dispute resolution (or other appropriate forum) over the annexation thereafter might cause impact with respect to fees and costs associated with the state's defense of the integrity of State property.

## SIGNIFICANT ISSUES

GSD provided the following:

HJM8 cannot force the executive branch and its officers and departments to do (by request or invitation of Legislature using a memorial) what the executive does not elect to do. A statute enacted long ago protects the state's constitutional distribution of powers in this context in an annexation provision found in New Mexico law.

Section 3-7-4(A), NMSA 1978, provides that: "*Territory owned by ... the state of New Mexico ... may be annexed to a municipality upon the consent of the authorized agent of the ... state of New Mexico ....*" (Emphasis and ellipses added)

The village seeks jurisdiction over the Fort Bayard property. Once that happens, its zoning and other regulations relating to development will apply and not those of the State. There will also be economic opportunities to bring in revenue from taxes, subleases and private/public partnerships.