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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/17

SPONSOR Rue LAST UPDATED _____ HB _____

SHORT TITLE National Park Jurisdiction SJR 8

ANALYST Armstrong

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See narrative			Recurring	Department of Public Safety

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Attorney General’s Office (AGO)

SUMMARY

Synopsis of Resolution

Senate Joint Resolution 8 (SJR8) grants legislative approval of a cession of “concurrent legislative jurisdiction” to the United States regarding the Petroglyph National Monument and the Valles Caldera National Preserve, contingent on a similar cession by the United States to New Mexico. The resolution defines “concurrent legislative jurisdiction” as shared authority over criminal laws, public powers, and tax laws.

FISCAL IMPLICATIONS

SJR8 allows federal and state law enforcement officers to enforce both state and federal law on the Petroglyph National Monument and the Valles Caldera National Preserve. This could result in additional costs to state or local entities in some situations and cost-savings in others. Increased costs could occur if state or local officers respond to calls from the federal properties. However, savings would be realized if a federal officer identifies activity in violation of state law and the officer issues a citation or makes an arrest rather than contacting a state or local officer to do so. Additionally, the resulting prosecution could occur in federal court saving the state additional resources.

SIGNIFICANT ISSUES

The language in the resolution provides that both New Mexico and the United States would cede concurrent legislative jurisdiction to each other, pursuant to the provisions of Section 19-2-2 NMSA 1978. That statute provides a procedure for jurisdiction transfers. First, the United States shall file a notice of intention to acquire or relinquish legislative jurisdiction with the governor, who shall provide a copy to the attorney general and request comments and recommendations. Second, the governor shall transmit the notice and recommendations from both the governor and the attorney general to the Legislature which may adopt a resolution to approve the transfer.

AGO analysis states it is “not clear from the wording who retains jurisdiction (the United States or New Mexico) and it should be made explicit which sovereign now has sole jurisdiction over these two national park areas.” However, the language in SJR8 does reflect resolutions passed in 1981 and 1993 which are attached.

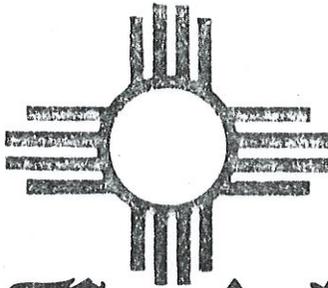
A letter from the National Parks Service (NPS) to the Department of Public Safety is attached requesting cession of concurrent legislative jurisdiction pursuant to statute. Letters from the Albuquerque Police Department and the Bernalillo and Sandoval county sheriffs in support of the cession of concurrent jurisdiction are also attached. The letter from the Bernalillo County Sherriff states that cession of concurrent jurisdiction does not limit the state’s right to exercise its jurisdiction, but allows NPS officers “to enforce additional criminal statutes and to assimilate state law where no applicable federal law or regulation exists.”

JA/al/jle

- 1 E. Chaco culture national historical park;
- 2 F. El Morro national monument;
- 3 G. Fort Union national monument;
- 4 H. Gila cliff dwellings national monument;
- 5 I. Salinas national monument;
- 6 J. Pecos national monument;
- 7 K. White Sands national monument; and
- 8 L. the regional headquarters, southwest region.

9 Section 2. As used in Section 1 of this resolution, the term
10 "concurrent legislative jurisdiction" is understood to mean the vesting
11 in the state of New Mexico and the United States of all the rights
12 accorded a sovereign with the broad qualification that such authority
13 is held concurrently over matters including but not limited to criminal
14 laws, public powers and tax laws and that it is the parallel right of
15 both the state and the federal government to legislate with respect to
16 such land and persons present or residing on it, subject only to the
17 United States and state of New Mexico constitutional complaints.

18 Section 3. The approval of the cession of concurrent legislative
19 jurisdiction provided in Section 1 of this resolution is subject to
20 compliance by the secretary of the interior with the provisions of 16
21 U.S.C. Section 1a-3 with respect to the relinquishment of such legisla-
22 tive jurisdiction.



The Legislature of the State of New Mexico

FORTY-FIRST LEGISLATURE
FIRST SESSION, 1993

SENATE JOINT RESOLUTION 21
INTRODUCED BY
SENATOR JOSEPH A. FIDEL

**A JOINT RESOLUTION
APPROVING THE CESSION OF CONCURRENT LEGISLATIVE JURISDICTION TO
THE UNITED STATES OVER CERTAIN UNITS OF THE NATIONAL PARK SYSTEM IN
NEW MEXICO.**

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Pursuant to the provisions of Section 19-2-2 NMSA 1978, approval is granted to the cession of concurrent legislative jurisdiction to the United States in accordance with a like cession of concurrent legislative jurisdiction by the United States to the State of New Mexico for land now owned, controlled, leased or administered by the United States within the boundaries of the following units of the National Park System in New Mexico:

- A. El Malpais National Monument; and*
- B. Pecos National Historical Park.*

Specific legal descriptions of the park boundaries are to be provided by the National Park Service by September 1, 1993.

Section 2. As used in Section 1 of this resolution, "concurrent legislative jurisdiction" means the vesting in the state and the United States of all the rights accorded a sovereign with the broad qualification that such authority is held concurrently over matters including, but not limited to, criminal laws, public powers and tax laws and that it is the parallel right of both the state and the federal 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.

Section 3. It is recognized that additional tracts may be added or deleted to El Malpais National Monument due to land exchanges with the pueblo of Acoma, as authorized in public law 100-255. The tracts of land are located adjacent to the east side of El Malpais National Monument. Upon any such modifications to the boundary, a letter to that effect with adequate legal descriptions will be provided to the governor to assure that concurrent jurisdiction is acquired by the United States.

Signed and Sealed at The Capitol



United States Department of the Interior

NATIONAL PARK SERVICE
INTERMOUNTAIN REGION
12795 West Alameda Parkway
P.O. Box 25287
Denver, Colorado 80225-0287



IN REPLY REFER TO:
IMR-RD

December 18, 2015

Gregory J. Fouratt
Cabinet Secretary
New Mexico Department of Public Safety
P.O. Box 1628
Santa Fe, NM 87504-1628

Dear Secretary Fouratt:

In accordance with Section 19-2-2 NMSA 1978, the National Park Service (hereinafter "NPS"), United States Department of the Interior, respectfully requests that the State of New Mexico cede to the United States concurrent legislative jurisdiction over all lands and waters, and interests in lands and waters, now owned or hereafter acquired by the United States within the authorized boundaries of the following units of the national park system located in New Mexico:

Petroglyph National Monument, Albuquerque, Bernalillo County, NM
Valles Caldera National Preserve, Sandoval and Rio Arriba Counties, NM

As used in this letter, the term "concurrent legislative jurisdiction" means the vesting in the United States and in the State of New Mexico all the rights accorded a sovereign, with the broad qualification that such authority is held concurrently over all matters, including but not limited to police powers, criminal laws, and tax laws. It will be the parallel right of both the federal and state governments to legislate with respect to such lands and the persons present or residing on them, subject only to the constraints imposed on the United States and the State of New Mexico by the United States Constitution and the Constitution of the State of New Mexico. As specified by NMSA 1978, § 19-1-1, the State of New Mexico will retain concurrent jurisdiction with the United States over every portion of the lands ceded so that all civil or criminal process issued under the authority of this state or a court of judicial officer of this state may be executed by the proper officers of this state on any person amenable to service of processes within the limits of the land to be ceded, in the same manner and to the same effect as if the cession had not occurred.

Such a cession of concurrent legislative jurisdiction will enable the NPS to better serve and protect the public and will allow for the more efficient administration of the above-listed units of the national park system. It will alleviate a burden on state and local law enforcement agencies by enabling the United States to enforce state criminal laws on all federally owned lands and waters, and interests in lands and waters, within those areas under what is commonly known as

the Assimilative Crimes Act, Act of June 25, 1945, ch. 645, 62 Stat. 686, codified as amended at 18 U.S.C. § 13 (2006). It will also help the NPS fulfill the congressional mandate contained in § 2 of the Act of October 7, 1976, Pub. L. No. 91-383, 90 Stat. 1939, codified as amended at 54 U.S.C. § 100754, which directs the Secretary of the Interior to “diligently pursue the consummation of arrangements with each State, Commonwealth, territory, or possession within which a unit of the national park system is located to the end that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within units of the national park system.”

Therefore, please consider this letter as a formal request by the United States to acquire concurrent legislative jurisdiction over all lands and waters, and interests in lands and waters, now owned or hereafter acquired by the United States within the authorized boundaries of Petroglyph National Monument and Valles Caldera National Preserve. In accordance with the statute, the NPS has compiled the legal descriptions of both national park units and has included them with this letter. NPS officials have met with the City of Albuquerque, the County of Bernalillo, and the County of Sandoval and received their support for this jurisdictional change. Copies of the letters of support from the Albuquerque Police Department and Bernalillo County Sheriff's Office are enclosed.

In the 1990s, a similar request was approved by the State of New Mexico for the other units of the national park system in New Mexico. The NPS feels strongly that the change to concurrent jurisdiction will provide for increased protection and security of all visitors and employees by enhancing penalties for criminal acts and strengthening investigative processes.

NPS officials are available to meet with you to provide further information or clarification. If you feel a meeting to further discuss this request is appropriate, officials from Petroglyph National Monument and Valles Caldera National Preserve could be available to meet with you after January 7, 2016.

The NPS looks forward to a continued partnership with the State of New Mexico in protecting and promoting New Mexico's heritage and natural treasures. Thank you for your consideration and assistance with this matter.

Sincerely,



Sue E. Masica
Regional Director
Intermountain Region

CITY OF ALBUQUERQUE

Albuquerque Police Department



Gorden E. Eden, Jr., Chief of Police

December 15, 2015

Gregory J. Fouratt
Cabinet Secretary
Department of Public Safety
P.O. Box 1628
Santa Fe, NM 87504-1628

Dear Secretary Fouratt,

We support the ceding of Concurrent Legislative Jurisdiction to Petroglyph National Monument.

The ceding of concurrent jurisdiction in no way limits the right of the State of New Mexico to exercise its jurisdiction within Petroglyph National Monument. Under this jurisdictional status, the United States and the State of New Mexico would jointly hold and exercise all rights accorded a sovereign, with the broad qualification that such authority is held concurrently.

400 Roma NW

Both State of New Mexico and federal criminal codes, including county and city ordinances, would apply to Petroglyph National Monument under this legislative jurisdiction. All state law enforcement agencies and the federal government would be able to enforce their respective codes.

Albuquerque

Concurrent jurisdiction does not affect the status of traditional legal prerogatives of the State of New Mexico or the National Park Service, their responsibilities, and their functions within Petroglyph National Monument. The State of New Mexico and the federal government will each have the right to legislate with respect to such land and persons residing or present within Petroglyph National Monument.

New Mexico 87102

www.cabq.gov

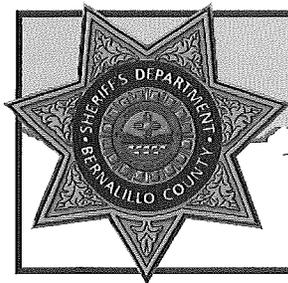
Concurrent legislative jurisdiction would better serve the law enforcement operations of the Albuquerque Police Department and Petroglyph National Monument. This change in legislative jurisdiction would enhance cooperation between our agencies, improve efficiency of operations for both departments and better protect the public.

Sincerely,

A handwritten signature in black ink, appearing to read "Gorden E. Eden, Jr.", written over a printed name.

GORDEN E. EDEN, JR.
Chief of Police

GEE:jlj



Bernalillo County Sheriff's Department

Manuel Gonzales III
Sheriff

Rudy Mora
Undersheriff

Greg Rees
Undersheriff

December 16, 2015

Gregory J. Fouratt
Cabinet Secretary
Department of Public Safety
PO Box 1628
Santa Fe, NM 87504-1628

RE: Concurrent Jurisdiction Request

Dear Secretary Fouratt:

The Bernalillo County Sheriff's Office is in support of the ceding of Concurrent Legislative Jurisdiction to Petroglyph National Monument. Under the proposed jurisdictional status, both State of New Mexico and federal criminal codes, including county and city ordinances, would apply to Petroglyph National Monument, allowing for state, county, local, and federal officials to enforce their respective codes. Cession of concurrent jurisdiction in no way limits the right of the State of New Mexico to exercise its jurisdiction within Petroglyph National Monument; it allows National Park Service Law Enforcement Rangers to enforce additional federal criminal statutes and also to assimilate state law under 18 U.S.C. 13, when no applicable federal law or regulation exists. The result allows for more efficient conduct of both State of New Mexico and federal law enforcement functions within Petroglyph National Monument.

There are several advantages of concurrent jurisdiction to the federal government and the State of New Mexico, including the following:

- Acts and omission punishable under state law are likewise punishable under federal law (18 U.S.C. 7 and §13) where no applicable federal law exists.
- Local, state and county courts do not have to bear the cost of trials unilaterally.
- The federal government may use the US Marshals Service to return a person for whom a federal warrant has been issued or for those who have eluded bail. There are no extradition costs or paperwork for the state or county for a person returned to stand trial in federal court.

- Subpoena costs are borne by the federal government when the case is taken to federal court by the NPS. The state or county is not required to bear unilaterally the expense of returning witnesses from out of state. Witnesses also can be subpoenaed from anywhere within the United States.

- Concurrent jurisdiction does not affect the status of traditional legal prerogatives of the State of New Mexico or the NPS, their responsibilities, and their functions within Petroglyph National Monument.

In general, we believe that concurrent legislative jurisdiction would better serve the law enforcement operations and agencies within and around Petroglyph National Monument. This change in jurisdiction would enhance cooperation between agencies and efficiency of operations; and therefore better service the public.

Regards,

A handwritten signature in black ink, appearing to read 'Manuel Gonzales III', written in a cursive style.

Manuel Gonzales III
Sheriff

Douglas C. Wood
Sheriff



Karl R. Wiese
Undersheriff

Sandoval County Sheriff's Office

P. O. Box 5219
Bernalillo, New Mexico 87004
Main 505-867-7526 Fax 505-867-7608

January 13, 2017

Gregory J. Fouratt
Cabinet Secretary
Department of Public Safety
P.O. Box 1628
Santa Fe, NM 87504-1628

Dear Secretary Fouratt:

Currently, all National Park Service units in New Mexico with the exception of Petroglyph and Valles Caldera are working under concurrent jurisdiction which was granted by the state. There is now an opportunity to create concurrent jurisdiction for both Petroglyph and Valles Caldera which are currently operating under proprietary jurisdiction.

The approval of contemplated legislative efforts to this effect would enhance the ability of the National Park Service Law Enforcement Rangers to protect and serve both the visiting public and the resources on their respective areas. In addition it could better serve both of our organizations by increasing the law enforcement effectiveness without additional demands on their field staff. This legislation would also further support our current MOU with the National Park Service to assist each other in providing law enforcement services and the sharing of resources and information.

We strongly support providing Concurrent Legislative Jurisdiction to Valles Caldera National Preserve. It is our understanding that under this jurisdictional status, the United States and the State of New Mexico would jointly hold and exercise all rights accorded to a sovereign, with the broad qualification that such authority is held concurrently. Both State of New Mexico and Federal criminal codes, including county ordinances, would apply to Valles Caldera National Preserve under this legislative jurisdiction. All state law enforcement agencies and the federal government would be able to enforce their respective codes.

The Sheriff's Office has enjoyed a positive working relationship with all of the Federal agencies that operate within Sandoval County, to include the Forest Service, Bureau of Land Management, Corps of Engineers, BIA, FBI and the National Park Service. This legislation will allow for more efficient conduct of the State of New Mexico, county and federal law enforcement functions within Valles Caldera National Preserve.

We appreciate your attention to this matter and hope that you will support this legislation.

Sincerely,

A handwritten signature in black ink that reads "D.C. Wood".

Douglas C. Wood
Sheriff

A handwritten signature in blue ink that reads "Karl R. Wiese".

Karl R. Wiese
Undersheriff