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HOUSE JOINT MEMORIAL 50  
**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY  
Ray Begaye

A JOINT MEMORIAL  
REQUESTING FEDERAL PROTECTION OF NATIVE AMERICAN SACRED SITES.

WHEREAS, the state of New Mexico recognizes and respects the sovereign authority of federally recognized Native American nations, tribes and pueblos, which recognition is expressly stated in Executive Order 2005-003, entitled "Adoption of Statewide Tribal Consultation Policy on the Protection of Sacred Places and Repatriation" and dated February 1, 2005; and

WHEREAS, the Cultural Properties Protection Act seeks to ensure that cultural property under the jurisdiction of the state is identified and is not inadvertently damaged or destroyed and that cultural property belonging to the state is preserved and protected; and

WHEREAS, Native American nations, tribes and pueblos within the state of New Mexico are actively concerned and

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1 involved with the protection of Native American sacred places;  
2 and

3 WHEREAS, Native American cultural and religious values,  
4 beliefs and practices are intimately and spiritually linked to  
5 the land and the natural world; and

6 WHEREAS, past federal policies and actions have resulted  
7 in the desecration, damage and destruction of Native American  
8 sacred places and sites, many of which remain threatened and  
9 endangered today; and

10 WHEREAS, congress enacted the American Indian Religious  
11 Freedom Act expressly "to protect and preserve for American  
12 Indians their inherent right of freedom to believe, express,  
13 and exercise the traditional religions of the American Indian  
14 ... including but not limited to access to sites, use and  
15 possession of sacred objects, and the freedom to worship  
16 through ceremonials and traditional rights"; and

17 WHEREAS, in *Lyng v. Northwest Indian Cemetery Protective*  
18 *Association*, 485 U.S. 439 (1988), the United States Supreme  
19 Court effectively vitiated the American Indian Religious  
20 Freedom Act as an enforceable law to protect Native American  
21 sacred sites by shutting the door on free exercise challenges,  
22 pursuant to the first amendment to the United States  
23 constitution, to governmental projects desecrating, interfering  
24 with and even destroying such landscapes and sites; and

25 WHEREAS, other federal laws and programs, such as

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1 President Clinton's Executive Order 13007, entitled "Indian  
2 Sacred Sites", do not specifically focus on the protection of  
3 sacred landscapes and do not confer any specific judicially  
4 enforceable cause of action to protect Native American sacred  
5 sites and places;

6 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
7 STATE OF NEW MEXICO that President Barack Obama be requested to  
8 commence immediate steps to address longstanding Native  
9 American sacred-site issues on a national basis, including  
10 establishing a specific and enforceable cause-of-action  
11 provision within the American Indian Religious Freedom Act of  
12 1978 and providing equitable funding to support Native American  
13 sacred-site resource protection programs; and

14 BE IT FURTHER RESOLVED that any federal legislation or  
15 other initiative regarding Native American sacred-site  
16 protection must include meaningful consultation and  
17 collaboration with tribal officials, participation by  
18 appropriate organizations and groups and the utmost respect for  
19 the confidential nature of sacred-site information; and

20 BE IT FURTHER RESOLVED that copies of this memorial be  
21 transmitted to the president of the United States; the  
22 secretary of the interior; the assistant secretary of the  
23 interior for Indian affairs; the president of the Navajo  
24 Nation; the speaker of the Navajo Nation council; the president  
25 of the Mescalero Apache Tribe; the president of the Jicarilla

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1 Apache Nation; the chair of the Ute Mountain Ute Tribe; the  
2 governors of the nineteen Indian pueblos in New Mexico; the  
3 members of the New Mexico congressional delegation; the  
4 governor; the secretary of Indian affairs; the chair of the  
5 national congress of American Indians; and the chair of the all  
6 Indian pueblo council.

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