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HOUSE JOINT MEMORIAL

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

A JOINT MEMORIAL

REQUESTING THE ATTORNEY GENERAL AND CULTURAL AFFAIRS DEPARTMENT  
TO WORK WITH TRIBAL AND COMMUNITY LEADERS TO MAKE  
RECOMMENDATIONS FOR ENHANCED PROTECTION OF CULTURAL ITEMS AND  
CULTURAL PROPERTIES FROM THEFT, WRONGFUL SALE OR ALIENATION.

WHEREAS, pursuant to the Cultural Properties Act,  
"cultural property" means a structure, place, site or object  
having historic, archaeological, scientific, architectural or  
other cultural significance; and

WHEREAS, under the Cultural Properties Act, the  
unauthorized appropriation of cultural property is a violation  
of state law; and

WHEREAS, the theft, wrongful sale or alienation of  
cultural property is damaging to all cultures and communities  
in New Mexico; and

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1           WHEREAS, the federal Native American Graves Protection and  
2           Repatriation Act describes the rights of Indian tribes with  
3           respect to the treatment, repatriation and disposition of  
4           Native American human remains, funerary objects, sacred objects  
5           and objects of cultural patrimony, referred to collectively in  
6           the statute as cultural items, with which they can show a  
7           relationship of lineal descent or cultural affiliation; and

8           WHEREAS, "cultural patrimony" is defined under the federal  
9           Native American Graves Protection and Repatriation Act as an  
10          object having ongoing historical, traditional or cultural  
11          importance central to the Native American group or culture  
12          itself, rather than property owned by an individual Native  
13          American, and which, therefore, cannot be alienated,  
14          appropriated or conveyed by any individual regardless of  
15          whether or not the individual is a member of the Indian tribe  
16          or Native Hawaiian organization and such object shall have been  
17          considered inalienable by such Native American group at the  
18          time the object was separated from such group; and

19          WHEREAS, it is a federal crime to steal, misappropriate or  
20          sell cultural patrimony or cultural items under the federal  
21          Native American Graves Protection and Repatriation Act; and

22          WHEREAS, the Native American nations, tribes and pueblos  
23          in New Mexico are ancient communities, each with a unique  
24          culture, heritage, language and world view, that have worked  
25          steadfastly to maintain and protect their spirituality and

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1 traditional cultural practices; and

2 WHEREAS, the theft, wrongful sale or alienation of  
3 cultural patrimony is not only illegal, it is also deeply  
4 offensive because it strikes at the heart of what it means to  
5 be tribal people and at the core of cultural belief systems in  
6 ways that impact what is significant and sacred; and

7 WHEREAS, despite the illegality of the practice, New  
8 Mexico continues to be a target for those who engage in the  
9 theft, sales and purchase of cultural items; and

10 WHEREAS, this misappropriation of cultural items has  
11 surpassed the reach of state and federal law, with sales  
12 occurring internationally in galleries and at auctions, leaving  
13 Native American nations, tribes and pueblos in New Mexico with  
14 little recourse;

15 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
16 STATE OF NEW MEXICO that the attorney general and the cultural  
17 affairs department be requested to work with tribal and  
18 community leaders to review the Cultural Properties Act and  
19 applicable federal laws to make recommendations for enhanced  
20 protection of cultural items, take steps to prevent the theft,  
21 wrongful sale or alienation of cultural items and cultural  
22 properties and discourage such acts by way of the creation and  
23 enforcement of treaties, laws and joint powers agreements to  
24 curtail these destructive practices; and

25 BE IT FURTHER RESOLVED that copies of this memorial be

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1 transmitted to the secretary of cultural affairs, the secretary  
2 of Indian affairs, the governor, the attorney general, the New  
3 Mexico congressional delegation and the appropriate interim  
4 legislative committees.

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