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SENATE MEMORIAL 1

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Michael Padilla

A MEMORIAL

RECOGNIZING THE ORIGIN OF THE ZIA SUN SYMBOL ON THE STATE FLAG OF NEW MEXICO; FURTHER RECOGNIZING THE INCLINATION OF ENTITIES TO USE THE STATE FLAG AND THE ZIA SUN SYMBOL FOR PUBLIC AND PRIVATE PURPOSES; REQUESTING A REPORT.

WHEREAS, in the early 1920s, Dr. Harry Mera designed a proposed flag for the state of New Mexico that incorporated colors and patterns from both Native American and Spanish traditions. The proposal adapted a sun symbol found on a Zia pot and combined it with the red and gold colors of King Ferdinand and Queen Isabella of Spain; and

WHEREAS, the Mera flag design was formally adopted by the state of New Mexico in 1925, and it is intended to celebrate New Mexico's tradition of cultural diversity and symbolize a "perfect friendship among united cultures"; and

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1 WHEREAS, in the nearly ninety years since the adoption of
2 the state flag, hundreds of individuals, businesses,
3 organizations, schools and political subdivisions of New Mexico
4 have made use of the Zia sun symbol; and

5 WHEREAS, in 1993, an application by Coulston International
6 for a United States trademark for a logo incorporating the Zia
7 sun symbol precipitated litigation between Coulston
8 International and the Pueblo of Zia and the eventual withdrawal
9 of the trademark application; and

10 WHEREAS, in 1997, an application by American Frontier
11 Motorcycle Tours, Inc., for a United States trademark for a
12 logo incorporating the Zia sun symbol precipitated federal
13 legislation for the listing and protection of official insignia
14 of Native American tribes and the eventual withdrawal of the
15 trademark application; and

16 WHEREAS, the United States patent office maintains the
17 Native American tribal insignia database created pursuant to
18 Section 302 of the Trademark Law Treaty Implementation Act of
19 1998; however, the Zia sun symbol is not listed within that
20 database; and

21 WHEREAS, in 2000, it was publicly reported that Southwest
22 Airlines was the first corporation to pay the Pueblo of Zia for
23 the use of the Zia sun symbol; and

24 WHEREAS, in 2003 and 2004, the governor of New Mexico
25 issued executive orders calling for the formation of a task

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1 force to review proposals regarding compensation to the Pueblo
2 of Zia for use of the Zia sun symbol; however, there is no
3 public record of any proceedings of such a task force; and

4 WHEREAS, in several sessions of the New Mexico legislature
5 from 1994 through 2000, legislation regarding the use and
6 ownership of the Zia sun symbol was introduced and reported
7 upon; and

8 WHEREAS, in 2012, both houses of the New Mexico
9 legislature passed memorials acknowledging the Zia sun symbol
10 as an "ancient and sacred symbol of the Zia people";

11 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
12 OF NEW MEXICO that widespread interest by the public in the use
13 of the state flag of New Mexico and the Zia sun symbol
14 incorporated within it be recognized; and

15 BE IT FURTHER RESOLVED that the history of litigation,
16 legislation, gubernatorial actions and efforts by the Pueblo of
17 Zia has created questions as to who may use the Zia sun symbol
18 and how it may be used; and

19 BE IT FURTHER RESOLVED that, during the first week of the
20 first session of the fifty-second legislature in 2015, the
21 cultural affairs department be requested make a report to the
22 senate Indian and cultural affairs committee and the senate
23 public affairs committee regarding who has a right to use the
24 Zia sun symbol and if there are any restrictions on how it may
25 be used; and

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BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the governor of New Mexico, the secretary of cultural affairs and the governor of the Pueblo of Zia.