

A MEMORIAL

REQUESTING THE PRESIDENT AND CONGRESS TO RESTORE AMERICAN
INDIAN RELIGIOUS PROTECTIONS.

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 involved with the protection of Native American sacred places; and

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

WHEREAS, past federal policies and actions have resulted in the desecration, damage and destruction of Native American

sacred places and sites, many of which remain threatened and endangered today; and

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

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

WHEREAS, other federal laws and programs, such as President Clinton's Executive Order 13007, entitled "Indian Sacred Sites", do not specifically focus on the protection of sacred landscapes and do not confer any specific judicially enforceable cause of action to protect Native American sacred sites and places;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF

REPRESENTATIVES OF THE STATE OF NEW MEXICO that President Barack Obama be requested to commence immediate steps to address longstanding Native American sacred-site issues on a national basis, including establishing a specific and enforceable cause-of-action provision within the American Indian Religious Freedom Act of 1978 and providing equitable funding to support Native American sacred-site resource protection programs; and

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

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the president of the United States; the secretary of the interior; the assistant secretary of the interior for Indian affairs; the president of the Navajo Nation; the speaker of the Navajo Nation council; the president of the Mescalero Apache Tribe; the president of the Jicarilla Apache Nation; the chair of the Ute Mountain Ute Tribe; the governors of the nineteen Indian pueblos in New Mexico; the members of the New Mexico congressional delegation; the governor; the secretary of Indian affairs; the chair of the national congress of American Indians; and the

chair of the all Indian pueblo council.