

1 A JOINT MEMORIAL

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

6
7 WHEREAS, pursuant to the Cultural Properties Act,
8 "cultural property" means a structure, place, site or object
9 having historic, archaeological, scientific, architectural or
10 other cultural significance; and

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

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

17 WHEREAS, the federal Native American Graves Protection
18 and Repatriation Act describes the rights of Indian tribes
19 with respect to the treatment, repatriation and disposition
20 of Native American human remains, funerary objects, sacred
21 objects and objects of cultural patrimony, referred to
22 collectively in the statute as cultural items, with which
23 they can show a relationship of lineal descent or cultural
24 affiliation; and

25 WHEREAS, "cultural patrimony" is defined under the

1 federal Native American Graves Protection and Repatriation
2 Act as an object having ongoing historical, traditional or
3 cultural importance central to the Native American group or
4 culture itself, rather than property owned by an individual
5 Native American, and which, therefore, cannot be alienated,
6 appropriated or conveyed by any individual regardless of
7 whether or not the individual is a member of the Indian tribe
8 or Native Hawaiian organization and such object shall have
9 been considered inalienable by such Native American group at
10 the time the object was separated from such group; and

11 WHEREAS, it is a federal crime to steal, misappropriate
12 or sell cultural patrimony or cultural items under the
13 federal Native American Graves Protection and Repatriation
14 Act; and

15 WHEREAS, the Native American nations, tribes and pueblos
16 in New Mexico are ancient communities, each with a unique
17 culture, heritage, language and world view, that have worked
18 steadfastly to maintain and protect their spirituality and
19 traditional cultural practices; and

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

25 WHEREAS, despite the illegality of the practice, New

1 Mexico continues to be a target for those who engage in the
2 theft, sales and purchase of cultural items; and

3 WHEREAS, this misappropriation of cultural items has
4 surpassed the reach of state and federal law, with sales
5 occurring internationally in galleries and at auctions,
6 leaving Native American nations, tribes and pueblos in New
7 Mexico with little recourse;

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

19 BE IT FURTHER RESOLVED that copies of this memorial be
20 transmitted to the secretary of cultural affairs, the
21 secretary of Indian affairs, the governor, the attorney
22 general, the New Mexico congressional delegation and the
23 appropriate interim legislative committees.