

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE JOINT MEMORIAL 1

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

INTRODUCED BY

James E. Smith and Carlos R. Cisneros

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

underscored material = new
~~[bracketed material] = delete~~

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

.202320.2

underscoring material = new
~~[bracketed material] = delete~~

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

.202320.2

underscored material = new
~~[bracketed material]~~ = delete

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.

5 - 4 -
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25