

1 SENATE MEMORIAL 104

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 A MEMORIAL

11 REQUESTING THE OFFICE OF THE ATTORNEY GENERAL, THE CULTURAL  
12 AFFAIRS DEPARTMENT AND THE INDIAN AFFAIRS DEPARTMENT TO WORK  
13 WITH PUEBLOS, NATIONS AND TRIBES OF NEW MEXICO TO ENHANCE THE  
14 PROTECTION OF PUEBLO, NAVAJO, APACHE AND INTERTRIBAL DANCES AND  
15 SONGS AS PROTECTED STATE CULTURAL RESOURCES.

16  
17 WHEREAS, New Mexico will safeguard Pueblo, Navajo, Apache  
18 and intertribal native dances and songs as protected state  
19 cultural resources; and

20 WHEREAS, New Mexico officially acknowledges Pueblo, Navajo  
21 and Apache tribal nations and other Native American groups as  
22 legitimate heirs, owners and originators of their unique  
23 cultural and spiritual traditions of dances and songs that  
24 constitute the original dances and songs of New Mexico; and

25 WHEREAS, New Mexico acknowledges the historical, cultural

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1 and regional distinctiveness of the customs, practices and  
2 religious obligations of the Pueblo, Navajo and Apache people  
3 and other tribal groups pursuant to their unique dances and  
4 songs; and

5 WHEREAS, New Mexico acknowledges that native dances and  
6 songs are culturally and spiritually crucial elements to the  
7 core identities of Pueblo, Navajo and Apache people and other  
8 Native American groups; and

9 WHEREAS, native dances and songs embody who and what  
10 native people are, and this reverence creates a collective bond  
11 among Pueblo, Navajo, Apache and other Native American people;  
12 and

13 WHEREAS, native dances and songs do not belong to any one  
14 individual but are considered divinely ordained inheritances to  
15 all who are legitimately affiliated with their pueblo, nation  
16 or tribe; and

17 WHEREAS, New Mexico acknowledges that significant Native  
18 American cultural events take place on state-operated  
19 properties, as well as pueblo and tribal lands, attracting  
20 visitors worldwide who bring significant tourist revenue and  
21 gross receipts taxes to the state; and

22 WHEREAS, New Mexico acknowledges pueblo and tribal  
23 performers who share their unique cultural identities through  
24 traditional, intertribal and contemporary dances and songs, and  
25 Native American dance groups and individuals are hired by and

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1 receive stipends from various state-operated departments; and

2 WHEREAS, New Mexico acknowledges that persons granted  
3 permission to take images and make recordings of traditional  
4 and intertribal dances and songs do not have the right to  
5 attempt to replicate, reenact or benefit from them, and such  
6 misuse will be deemed exploitative and a misappropriation of  
7 state cultural resources; and

8 WHEREAS, the tourism department uses traditional and  
9 intertribal dance images to promote New Mexico as a major  
10 tourist destination, and these images must include an  
11 intellectual property clause recognizing native dances and  
12 songs as state cultural resources; and

13 WHEREAS, this notice is required to be visible in all  
14 state brochures, vacation guides, websites, billboards, banners  
15 and other media of tourist promotion, as well as in state-  
16 operated visitor and cultural centers; and

17 WHEREAS, native songs use native languages and are  
18 protected by the federal Native American Languages Act of 1990;  
19 and

20 WHEREAS, Pueblo, Navajo, Apache and intertribal songs use  
21 native languages and are essential to native dances; and

22 WHEREAS, the federal Indian Arts and Crafts Act of 1990  
23 protects Native American arts and crafts that are part of  
24 actual pueblo and tribal dances and songs and arts and crafts  
25 that are worn, displayed and handled and that are required to

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1 complete authentic dances and songs indigenous to the Pueblo,  
2 Navajo and Apache people and Native American groups; and

3 WHEREAS, the federal Native American Graves Protection and  
4 Repatriation Act refers to the protection of significant  
5 cultural and spiritual items; and

6 WHEREAS, Pueblo, Navajo and Apache people and Native  
7 American groups use protected items to complete native dances  
8 and songs; and

9 WHEREAS, the federal Bald and Golden Eagle Protection Act  
10 allows enrolled Pueblo, Navajo and Apache people and other  
11 Native American groups to use eagle feathers and parts of other  
12 federally protected birds and animals in native dances and  
13 songs; and

14 WHEREAS, native spiritual practitioners, healers and  
15 society leaders use these federally protected items and pass  
16 them down through biological lineage and tribal affiliation;  
17 and

18 WHEREAS, New Mexico acknowledges restrictions on illegal  
19 sketching or audio or visual recording of ceremonial dance  
20 observances held on pueblo or tribal lands; and

21 WHEREAS, individuals or groups who falsely claim tribal  
22 enrollment or the right to perform sacred, traditional or  
23 intertribal dances and songs unique to New Mexico will be  
24 deemed as undertaking an act of exploitation and cultural  
25 misappropriation; and

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1           WHEREAS, the office of the attorney general, the cultural  
2           affairs department and the Indian affairs department are  
3           requested to work collectively with pueblos, nations and tribes  
4           to create legal mechanisms that penalize and prosecute those  
5           who engage in this activity; and

6           WHEREAS, New Mexico acknowledges exceptional situations  
7           whereby individuals who have legitimate native ancestry but are  
8           not tribally enrolled may possess legal familial ties with  
9           enrolled pueblo or tribal members; and

10          WHEREAS, New Mexico recognizes non-enrollment of pueblo  
11          and tribal descendants for reasons of adoption, abduction and  
12          cultural disruptions, such as boarding schools, relocation,  
13          addiction and historic trauma, and, in such situations, the  
14          state defers to the sovereignty of tribal governments to  
15          determine the eligibility of individual participation in pueblo  
16          and tribal dances;

17          NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE  
18          OF NEW MEXICO that the office of the attorney general, the  
19          cultural affairs department and the Indian affairs department  
20          be requested to collaborate with pueblos, nations and tribes in  
21          the creation of legal mechanisms that further strengthen,  
22          protect and preserve the sanctity of actual Pueblo, Navajo,  
23          Apache and intertribal dances and songs; and

24          BE IT FURTHER RESOLVED that these legal mechanisms  
25          effectively penalize and prosecute individuals, groups,

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1 organizations and hobbyists that exploit, misappropriate,  
2 commercialize or wrongfully mislead the portrayal of actual  
3 pueblo, tribal and intertribal dances and songs of New Mexico;  
4 and

5 BE IT FURTHER RESOLVED that copies of this memorial be  
6 transmitted to the secretary of cultural affairs, the secretary  
7 of Indian affairs, the governor, the office of the attorney  
8 general, the New Mexico congressional delegation, the all  
9 pueblo council of governors, the Navajo Nation, the Jicarilla  
10 Apache Nation, the Mescalero Apache Tribe, the Fort Sill Apache  
11 Tribe, the boy scouts of America and the Philmont scout ranch.