

114TH CONGRESS  
2D SESSION

# S. CON. RES. 49

Supporting efforts to stop the theft, illegal possession or sale, transfer, and export of tribal cultural items of Indians, Alaska Natives, and Native Hawaiians in the United States and internationally.

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## IN THE SENATE OF THE UNITED STATES

JULY 14, 2016

Mr. UDALL (for himself, Mr. McCAIN, and Mr. HEINRICH) submitted the following concurrent resolution; which was referred to the Committee on Indian Affairs

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## CONCURRENT RESOLUTION

Supporting efforts to stop the theft, illegal possession or sale, transfer, and export of tribal cultural items of Indians, Alaska Natives, and Native Hawaiians in the United States and internationally.

1       *Resolved by the Senate (the House of Representatives*  
2       *concurring),*

3       **SECTION 1. SHORT TITLE.**

4       This concurrent resolution may be cited as the “Pro-  
5       tection of the Right of Tribes to stop the Export of Cul-  
6       tural and Traditional Patrimony Resolution” or the  
7       “PROTECT Patrimony Resolution”.

1 **SEC. 2. DEFINITIONS.**

2 In this resolution:

3 (1) NATIVE AMERICAN.—The term “Native  
4 American” means—

5 (A) an Indian tribe (as defined in section  
6 2 of the Native American Graves Protection  
7 and Repatriation Act (25 U.S.C. 3001));

8 (B) a member of an Indian tribe described  
9 in subparagraph (A); or

10 (C) a Native Hawaiian (as defined in sec-  
11 tion 2 of the Native American Graves Protec-  
12 tion and Repatriation Act (25 U.S.C. 3001)).

13 (2) TRIBAL CULTURAL ITEM.—The term “tribal  
14 cultural item” has the meaning given the term “cul-  
15 tural item” in section 2 of the Native American  
16 Graves Protection and Repatriation Act (25 U.S.C.  
17 3001).

18 **SEC. 3. FINDINGS.**

19 Congress finds the following:

20 (1) Tribal cultural items—

21 (A) have ongoing historical, traditional, or  
22 cultural importance central to a Native Amer-  
23 ican group or culture;

24 (B) cannot be alienated, appropriated, or  
25 conveyed by any individual; and

1           (C) are vital to Native American cultural  
2 survival and the maintenance of Native Amer-  
3 ican ways of life.

4           (2) The nature and description of tribal cultural  
5 items are sensitive and to be treated with respect  
6 and confidentiality, as appropriate.

7           (3) Violators often export tribal cultural items  
8 internationally with the intent of evading Federal  
9 and tribal laws.

10          (4) Tribal cultural items continue to be re-  
11 moved from the possession of Native Americans and  
12 sold in black or public markets in violation of Fed-  
13 eral and tribal laws, including laws designed to pro-  
14 tect Native American cultural property rights.

15          (5) The illegal trade of tribal cultural items in-  
16 volves a sophisticated and lucrative black market,  
17 where the items are traded through domestic mar-  
18 kets and then are often exported internationally.

19          (6) Auction houses in foreign countries have  
20 held sales of tribal cultural items from the Pueblo of  
21 Acoma, the Pueblo of Laguna, the Pueblo of San  
22 Felipe, the Hopi Tribe, and other Indian tribes.

23          (7) After tribal cultural items are exported  
24 internationally, Native Americans have difficulty  
25 stopping the sale of the items and securing their re-

1 patriation to their home communities, where the  
2 items belong.

3 (8) Federal agencies have a responsibility to  
4 consult with Native Americans to stop the theft, ille-  
5 gal possession or sale, transfer, and export of tribal  
6 cultural items.

7 (9) An increase in the investigation and suc-  
8 cessful prosecution of violations of the Native Amer-  
9 ican Graves Protection and Repatriation Act (25  
10 U.S.C. 3001 et seq.) and the Archaeological Re-  
11 sources Protection Act of 1979 (16 U.S.C. 470aa et  
12 seq.) is necessary to deter illegal trading in tribal  
13 cultural items.

14 (10) Many Indian tribes and tribal organiza-  
15 tions have passed resolutions condemning the theft  
16 and sale of tribal cultural items, including the fol-  
17 lowing:

18 (A) The National Congress of American  
19 Indians passed Resolutions SAC-12-008 and  
20 SD-15-075 to call on the United States, in  
21 consultation with Native Americans—

22 (i) to address international repatri-  
23 ation; and

24 (ii) to take affirmative actions to stop  
25 the theft and illegal sale of tribal cultural

1 items both domestically and internation-  
2 ally.

3 (B) The All Pueblo Council of Governors,  
4 representative of 20 Pueblo Indian tribes—

5 (i) noted that the Pueblo Indian tribes  
6 of the Southwestern United States have  
7 been disproportionately affected by the sale  
8 of tribal cultural items both domestically  
9 and internationally in violation of Federal  
10 and tribal laws; and

11 (ii) passed Resolutions 2015–12 and  
12 2015–13 to call on the United States, in  
13 consultation with Native Americans—

14 (I) to address international repa-  
15 triation; and

16 (II) to take affirmative actions to  
17 stop the theft and illegal sale of tribal  
18 cultural items both domestically and  
19 internationally.

20 (C) The United South and Eastern Tribes,  
21 an intertribal organization comprised of 26 fed-  
22 erally recognized Indian tribes, passed Resolu-  
23 tion 2015:007, which calls on the United States  
24 to address all means to support the repatriation

1 of tribal cultural items from beyond United  
2 States borders.

3 (D) The Inter-Tribal Council of the Five  
4 Civilized Tribes, uniting the Chickasaw, Choctaw,  
5 Cherokee, Muscogee (Creek), and Seminole  
6 Nations, passed Resolution 12–07, which re-  
7 quests that the United States, after consulta-  
8 tion with Native Americans, assist in inter-  
9 national repatriation and take immediate action  
10 to address repatriation.

11 **SEC. 4. DECLARATION OF CONGRESS.**

12 Congress—

13 (1) condemns the theft, illegal possession or  
14 sale, transfer, and export of tribal cultural items;

15 (2) calls on the Secretary of the Interior, the  
16 Secretary of State, the Secretary of Commerce, the  
17 Secretary of Homeland Security, and the Attorney  
18 General to consult with Native Americans, including  
19 traditional Native American religious leaders, in ad-  
20 dressing the practices described in paragraph (1)—

21 (A) to take affirmative action to stop the  
22 practices; and

23 (B) to secure repatriation of tribal cultural  
24 items to Native Americans;

1           (3) calls on the Comptroller General of the  
2 United States—

3           (A) to conduct a study to determine the  
4 scope of illegal trafficking in tribal cultural  
5 items domestically and internationally; and

6           (B) to identify, in consultation with Native  
7 Americans, including traditional Native Amer-  
8 ican religious leaders, steps required—

9           (i) to end illegal trafficking in, and  
10 the export of, tribal cultural items; and

11           (ii) to secure repatriation of tribal cul-  
12 tural items to the appropriate Native  
13 Americans;

14           (4) supports the development of explicit restric-  
15 tions on the export of tribal cultural items; and

16           (5) encourages State and local governments and  
17 interested groups and organizations to work coopera-  
18 tively in—

19           (A) deterring the theft, illegal possession  
20 or sale, transfer, and export of tribal cultural  
21 items; and

22           (B) securing the repatriation of tribal cul-  
23 tural items to the appropriate Native Ameri-  
24 cans.

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