

Representative Brown of Ohio to serve on this committee.

The Committee on Oversight and Reform performs an important role in ensuring accountability throughout the federal government and investigating the critical issues facing our country. I am proud of the committee's work and, as the Chair of the Congressional Transparency Caucus, I have worked closely with the committee to develop legislation to foster an open and accountable government. I am confident that Representative Brown will serve on the Committee with integrity.

Thank you for your consideration of this request.

Sincerely,

MIKE QUIGLEY,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted. There was no objection.

ELECTING A CERTAIN MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. JEFFRIES. Madam Speaker, by direction of the Democratic Caucus, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 825

Resolved, That the following named Member be, and is hereby, elected to the following standing committees of the House of Representatives:

COMMITTEE ON AGRICULTURE: Ms. Brown of Ohio, to rank immediately after Mr. Delgado.

COMMITTEE ON OVERSIGHT AND REFORM: Ms. Brown of Ohio, to rank immediately after Ms. Bush.

Mr. JEFFRIES (during the reading). Madam Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which the yeas and nays are ordered.

The House will resume proceedings on postponed questions at a later time.

SAFEGUARD TRIBAL OBJECTS OF PATRIMONY ACT OF 2021

Ms. LEGER FERNANDEZ. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2930) to enhance protections of Native American tangible cultural heritage, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safeguard Tribal Objects of Patrimony Act of 2021".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to carry out the trust responsibility of the United States to Indian Tribes;

(2) to increase the maximum penalty for actions taken in violation of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act), in order to strengthen deterrence;

(3) to stop the export, and facilitate the international repatriation, of cultural items prohibited from being trafficked by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act) and archaeological resources prohibited from being trafficked by the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) by—

(A) explicitly prohibiting the export;

(B) creating an export certification system; and

(C) confirming the authority of the President to request from foreign nations agreements or provisional measures to prevent irreparable damage to Native American cultural heritage;

(4) to establish a Federal framework in order to support the voluntary return by individuals and organizations of items of tangible cultural heritage, including items covered by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act) and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(5) to establish an interagency working group to ensure communication between Federal agencies to successfully implement this Act, the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and other relevant Federal laws;

(6) to establish a Native working group of Indian Tribes and Native Hawaiian organizations to assist in the implementation of this Act, the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and other relevant Federal laws;

(7) to exempt from disclosure under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act")—

(A) information submitted by Indian Tribes or Native Hawaiian organizations pursuant to this Act; and

(B) information relating to an Item Requiring Export Certification for which an export certification was denied pursuant to this Act; and

(8) to encourage buyers to purchase legal contemporary art made by Native artists for commercial purposes.

SEC. 3. DEFINITIONS.

In this Act:

(1) **ARCHAEOLOGICAL RESOURCE.**—The term "archaeological resource" means an archaeological resource (as defined in section 3 of the Archaeological Resources Protection Act

of 1979 (16 U.S.C. 470bb)) that is Native American.

(2) **CULTURAL AFFILIATION.**—The term "cultural affiliation" means that there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between a present day Indian Tribe or Native Hawaiian organization and an identifiable earlier group.

(3) **CULTURAL ITEM.**—The term "cultural item" means any 1 or more cultural items (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

(4) **INDIAN TRIBE.**—The term "Indian Tribe" has the meaning given the term "Indian tribe" in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).

(5) **ITEM PROHIBITED FROM EXPORTATION.**—The term "Item Prohibited from Exportation" means—

(A) a cultural item prohibited from being trafficked, including through sale, purchase, use for profit, or transport for sale or profit, by—

(i) section 1170(b) of title 18, United States Code, as added by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); or

(ii) any other Federal law or treaty; and

(B) an archaeological resource prohibited from being trafficked, including through sale, purchase, exchange, transport, receipt, or offer to sell, purchase, or exchange, including in interstate or foreign commerce, by—

(i) subsections (b) and (c) of section 6 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ee); or

(ii) any other Federal law or treaty.

(6) **ITEM REQUIRING EXPORT CERTIFICATION.**—

(A) **IN GENERAL.**—The term "Item Requiring Export Certification" means—

(i) a cultural item; and

(ii) an archaeological resource.

(B) **EXCLUSION.**—The term "Item Requiring Export Certification" does not include an item described in clause (i) or (ii) of subparagraph (A) for which an Indian Tribe or Native Hawaiian organization with a cultural affiliation with the item has provided a certificate authorizing exportation of the item.

(7) **NATIVE AMERICAN.**—The term "Native American" means—

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

(B) Native Hawaiian (as so defined).

(8) **NATIVE HAWAIIAN ORGANIZATION.**—The term "Native Hawaiian organization" has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).

(9) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(10) **TANGIBLE CULTURAL HERITAGE.**—The term "tangible cultural heritage" means—

(A) Native American human remains; or

(B) culturally, historically, or archaeologically significant objects, resources, patrimony, or other items that are affiliated with a Native American culture.

SEC. 4. ENHANCED NAGPRA PENALTIES.

Section 1170 of title 18, United States Code, is amended—

(1) by striking "5 years" each place it appears and inserting "10 years"; and

(2) in subsection (a), by striking "12 months" and inserting "1 year and 1 day".

SEC. 5. EXPORT PROHIBITIONS; EXPORT CERTIFICATION SYSTEM; INTERNATIONAL AGREEMENTS.

(a) **EXPORT PROHIBITIONS.**—

(1) **IN GENERAL.**—It shall be unlawful for any person—

(A) to export, attempt to export, or otherwise transport from the United States any Item Prohibited from Exportation;

(B) to conspire with any person to engage in an activity described in subparagraph (A); or

(C) to conceal an activity described in subparagraph (A).

(2) **PENALTIES.**—Any person who violates paragraph (1) and knows, or in the exercise of due care should have known, that the Item Prohibited from Exportation was taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any Federal law or treaty, shall be fined in accordance with section 3571 of title 18, United States Code, imprisoned for not more than 1 year and 1 day for a first violation, and not more than 10 years for a second or subsequent violation, or both.

(3) **DETENTION, FORFEITURE, AND REPATRIATION.**—

(A) **DETENTION AND DELIVERY.**—The Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, shall—

(i) detain any Item Prohibited from Exportation that is exported, attempted to be exported, or otherwise transported from the United States in violation of paragraph (1); and

(ii) deliver the Item Prohibited from Exportation to the Secretary.

(B) **FORFEITURE.**—Any Item Prohibited from Exportation that is exported, attempted to be exported, or otherwise transported from the United States in violation of paragraph (1) shall be subject to forfeiture to the United States in accordance with chapter 46 of title 18, United States Code (including section 983(c) of that chapter).

(C) **REPATRIATION.**—Any Item Prohibited from Exportation that is forfeited under subparagraph (B) shall be expeditiously repatriated to the appropriate Indian Tribe or Native Hawaiian organization in accordance with, as applicable—

(i) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act); or

(ii) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

(b) **EXPORT CERTIFICATION SYSTEM.**—

(1) **EXPORT CERTIFICATION REQUIREMENT.**—

(A) **IN GENERAL.**—No Item Requiring Export Certification may be exported from the United States without first having obtained an export certification in accordance with this subsection.

(B) **PUBLICATION.**—The Secretary, in consultation with Indian Tribes and Native Hawaiian organizations, shall publish in the Federal Register a notice that includes—

(i) a description of characteristics typical of Items Requiring Export Certification, which shall—

(I) include the definitions of the terms—

(aa) “cultural items” in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001); and

(bb) “archaeological resource” in section 3 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb);

(II) describe the provenance requirements associated with the trafficking prohibition applicable to—

(aa) cultural items under section 1170(b) of title 18, United States Code; and

(bb) archaeological resources under subsections (b) and (c) of section 6 of Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ee);

(III)(aa) include the definitions of the terms “Native American” and “Native Hawaiian” in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001); and

(bb) describe how those terms apply to archaeological resources under this Act; and

(IV) be sufficiently specific and precise to ensure that—

(aa) an export certification is required only for Items Requiring Export Certification; and

(bb) fair notice is given to exporters and other persons regarding which items require an export certification under this subsection; and

(ii) a description of characteristics typical of items that do not qualify as Items Requiring Export Certification and therefore do not require an export certification under this subsection, which shall clarify that—

(I) an item made solely for commercial purposes is presumed to not qualify as an Item Requiring Export Certification, unless an Indian Tribe or Native Hawaiian organization challenges that presumption; and

(II) in some circumstances, receipts or certifications issued by Indian Tribes or Native Hawaiian organizations with a cultural affiliation with an item may be used as evidence to demonstrate a particular item does not qualify as an Item Requiring Export Certification.

(2) **ELIGIBILITY FOR EXPORT CERTIFICATION.**—An Item Requiring Export Certification is eligible for an export certification under this subsection if—

(A) the Item Requiring Export Certification is not under ongoing Federal investigation;

(B) the export of the Item Requiring Export Certification would not otherwise violate any other provision of law; and

(C) the Item Requiring Export Certification—

(i) is not an Item Prohibited from Exportation;

(ii) was excavated or removed pursuant to a permit issued under section 4 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470cc) and in compliance with section 3(c) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(c)), if the permit for excavation or removal authorizes export; or

(iii) is accompanied by written confirmation from the Indian Tribe or Native Hawaiian organization with authority to alienate the Item Requiring Export Certification that—

(I) the exporter has a right of possession (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)) of the Item Requiring Export Certification; or

(II) the Indian Tribe or Native Hawaiian organization has relinquished title or control of the Item Requiring Export Certification in accordance with section 3 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002).

(3) **EXPORT CERTIFICATION APPLICATION AND ISSUANCE PROCEDURES.**—

(A) **APPLICATIONS FOR EXPORT CERTIFICATION.**—

(i) **IN GENERAL.**—An exporter seeking to export an Item Requiring Export Certification from the United States shall submit to the Secretary an export certification application in accordance with clause (iii).

(ii) **CONSEQUENCES OF FALSE STATEMENT.**—Any willful or knowing false statement made on an export certification application form under clause (i) shall—

(I) subject the exporter to criminal penalties pursuant to section 1001 of title 18, United States Code; and

(II) prohibit the exporter from receiving an export certification for any Item Requiring Export Certification in the future unless the exporter submits additional evidence in accordance with subparagraph (B)(iii)(I).

(iii) **FORM OF EXPORT CERTIFICATION APPLICATION.**—The Secretary, in consultation with Indian Tribes and Native Hawaiian organizations, and at the discretion of the Secretary, in consultation with third parties with relevant expertise, including institutions of higher education, museums, dealers, and collector organizations, shall develop an export certification application form, which shall require that an applicant—

(I) describe, and provide pictures of, each Item Requiring Export Certification that the applicant seeks to export;

(II) include all available information regarding the provenance of each such Item Requiring Export Certification; and

(III) include the attestation described in subparagraph (B)(i).

(B) **EVIDENCE.**—

(i) **IN GENERAL.**—In completing an export certification application with respect to an Item Requiring Export Certification that the exporter seeks to export, the exporter shall attest that, to the best of the knowledge and belief of the exporter, the exporter is not attempting to export an Item Prohibited from Exportation.

(ii) **SUFFICIENCY OF ATTESTATION.**—An attestation under clause (i) shall be considered to be sufficient evidence to support the application of the exporter under subparagraph (A)(iii)(III), on the condition that the exporter is not required to provide additional evidence under clause (iii)(I).

(iii) **ADDITIONAL REQUIREMENTS.**—

(I) **IN GENERAL.**—The Secretary shall give notice to an exporter that submits an export certification application under subparagraph (A)(i) that the exporter is required to submit additional evidence in accordance with subclause (III) if the Secretary has determined under subparagraph (A)(ii) that the exporter made a willful or knowing false statement on the application or any past export certification application.

(II) **DELAYS OR DENIALS.**—The Secretary shall give notice to an exporter that submits an export certification application under subparagraph (A)(i) that the exporter may submit additional evidence in accordance with subclause (III) if the issuance of an export certification is—

(aa) delayed pursuant to the examination by the Secretary of the eligibility of the Item Requiring Export Certification for an export certification; or

(bb) denied by the Secretary because the Secretary determined that the Item Requiring Export Certification is not eligible for an export certification under this subsection.

(III) **ADDITIONAL EVIDENCE.**—On receipt of notice under subclause (I), an exporter shall, or on receipt of a notice under subclause (II), an exporter may, provide the Secretary with such additional evidence as the Secretary may require to establish that the Item Requiring Export Certification is eligible for an export certification under this subsection.

(C) **DATABASE APPLICATIONS.**—

(i) **IN GENERAL.**—The Secretary shall establish and maintain a secure central Federal database information system (referred to in this subparagraph as the “database”) for the purpose of making export certification applications available to Indian Tribes and Native Hawaiian organizations.

(ii) **COLLABORATION REQUIRED.**—The Secretary shall collaborate with Indian Tribes, Native Hawaiian organizations, and the interagency working group convened under section 7(a) in the design and implementation of the database.

(iii) **AVAILABILITY.**—Immediately on receipt of an export certification application, the Secretary shall make the export certification application available on the database.

(iv) **DELETION FROM DATABASE.**—On request by an Indian Tribe or Native Hawaiian organization, the Secretary shall delete an export certification application from the database.

(v) **TECHNICAL ASSISTANCE.**—If an Indian Tribe or Native Hawaiian organization lacks sufficient resources to access the database or respond to agency communications in a timely manner, the Secretary, in consultation with Indian Tribes and Native Hawaiian organizations, shall provide technical assistance to facilitate that access or response, as applicable.

(D) **ISSUANCE OF EXPORT CERTIFICATION.**—

(i) On receipt of an export certification application for an Item Requiring Export Certification that meets the requirements of subparagraphs (A) and (B), if the Secretary, in consultation with Indian Tribes and Native Hawaiian organizations with a cultural affiliation with the Item Requiring Export Certification, determines that the Item Requiring Export Certification is eligible for an export certification under paragraph (2), the Secretary may issue an export certification for the Item Requiring Export Certification.

(ii) On receipt of an export certification application for an Item Requiring Export Certification that meets the requirements of subparagraphs (A) and (B)—

(I) the Secretary shall have 1 business day to notify the relevant Indian Tribes and Native Hawaiian Organizations of an application for export of an Item Requiring Export Certification;

(II) Indian Tribes and Native Hawaiian organizations shall have 9 business days to review the export certification application;

(III) if an Indian Tribe or Native Hawaiian organization notifies the Secretary that the Item Requiring Export Certification may not be eligible for an export certification under paragraph (2), the Secretary shall have 7 business days to review the application;

(IV) if no Indian Tribe or Native Hawaiian organization so notifies the Secretary, the Secretary shall have 1 business day to review the application;

(V) with notice to the exporter, the Secretary may extend the review of an application for up to 30 business days if credible evidence is provided that the Item Requiring Export Certification may not be eligible for an export certification under paragraph (2); and

(VI) the Secretary shall make a determination to approve or deny the export certification application within the time allotted.

(E) **REVOCATION OF EXPORT CERTIFICATION.**—

(i) **IN GENERAL.**—If credible evidence is provided that indicates that an item that received an export certification under subparagraph (D) is not eligible for an export certification under paragraph (2), the Secretary may immediately revoke the export certification.

(ii) **DETERMINATION.**—In determining whether a revocation is warranted under clause (i), the Secretary shall consult with Indian Tribes and Native Hawaiian organizations with a cultural affiliation with the affected Item Requiring Export Certification.

(4) **DETENTION, FORFEITURE, REPATRIATION, AND RETURN.**—

(A) **DETENTION AND DELIVERY.**—The Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, shall—

(i) detain any Item Requiring Export Certification that an exporter attempts to export or otherwise transport without an export certification; and

(ii) deliver the Item Requiring Export Certification to the Secretary, for seizure by the Secretary.

(B) **FORFEITURE.**—Any Item Requiring Export Certification that is detained under sub-

paragraph (A)(i) shall be subject to forfeiture to the United States in accordance with chapter 46 of title 18, United States Code (including section 983(c) of that chapter).

(C) **REPATRIATION OR RETURN TO EXPORTER.**—

(i) **IN GENERAL.**—Not later than 60 days after the date of delivery to the Secretary of an Item Requiring Export Certification under subparagraph (A)(ii), the Secretary shall determine whether the Item Requiring Export Certification is an Item Prohibited from Exportation.

(ii) **REPATRIATION.**—If an Item Requiring Export Certification is determined by the Secretary to be an Item Prohibited from Exportation and is forfeited under subparagraph (B), the item shall be expeditiously repatriated to the appropriate Indian Tribe or Native Hawaiian organization in accordance with, as applicable—

(I) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act); or

(II) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

(iii) **RETURN TO EXPORTER.**—

(I) **IN GENERAL.**—If the Secretary determines that credible evidence does not establish that the Item Requiring Export Certification is an Item Prohibited from Exportation, or if the Secretary does not complete the determination by the deadline described in clause (i), the Secretary shall return the Item Requiring Export Certification to the exporter.

(II) **EFFECT.**—The return of an Item Requiring Export Certification to an exporter under subclause (I) shall not mean that the Item Requiring Export Certification is eligible for an export certification under this subsection.

(5) **PENALTIES.**—

(A) **ITEMS REQUIRING EXPORT CERTIFICATION.**—

(i) **IN GENERAL.**—It shall be unlawful for any person to export, attempt to export, or otherwise transport from the United States any Item Requiring Export Certification without first obtaining an export certification.

(ii) **PENALTIES.**—Except as provided in subparagraph (D), any person who violates clause (i) shall be—

(I) assessed a civil penalty in accordance with such regulations as the Secretary promulgates pursuant to section 10; and

(II) subject to any other applicable penalties under this Act.

(B) **ITEMS PROHIBITED FROM EXPORTATION.**—Whoever exports an Item Prohibited from Exportation without first securing an export certification shall be liable for a civil money penalty, the amount of which shall equal the total cost of storing and repatriating the Item Prohibited from Exportation.

(C) **USE OF FINES COLLECTED.**—Any amounts collected by the Secretary as a civil penalty under subparagraph (A)(ii)(I) or (B) shall be credited to the currently applicable appropriation, account, or fund of the Department of the Interior as discretionary offsetting collections and shall be available only to the extent and in the amounts provided in advance in appropriations Acts—

(i) to process export certification applications under this subsection; and

(ii) to store and repatriate the Item Prohibited from Exportation.

(D) **VOLUNTARY RETURN.**—

(i) **IN GENERAL.**—Any person who attempts to export or otherwise transport from the United States an Item Requiring Export Certification without first obtaining an export certification, but voluntarily returns the Item Requiring Export Certification, or directs the Item Requiring Export Certifi-

cation to be returned, to the appropriate Indian Tribe or Native Hawaiian organization in accordance with section 6 prior to the commencement of an active Federal investigation shall not be prosecuted for a violation of subparagraph (A) with respect to the Item Requiring Export Certification.

(ii) **ACTIONS NOT COMMENCING A FEDERAL INVESTIGATION.**—For purposes of clause (i), the following actions shall not be considered to be actions that commence an active Federal investigation:

(I) The submission by the exporter of an export certification application for the Item Requiring Export Certification under paragraph (3)(A)(i).

(II) The detention of the Item Requiring Export Certification by the Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, under paragraph (4)(A)(i).

(III) The delivery to the Secretary of the Item Requiring Export Certification by the Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, under paragraph (4)(A)(ii).

(IV) The seizure by the Secretary of the Item Requiring Export Certification under paragraph (4)(A)(ii).

(6) **FEES.**—

(A) **IN GENERAL.**—The Secretary may assess reasonable fees to process export certification applications under this subsection, subject to subparagraph (B).

(B) **AVAILABILITY OF AMOUNTS COLLECTED.**—Fees authorized under subparagraph (A) shall be collected and available only to the extent and in the amounts provided in advance in appropriations Acts.

(7) **ADMINISTRATIVE APPEAL.**—If the Secretary denies an export certification or an Item Requiring Export Certification is detained under this subsection, the exporter, on request, shall be given a hearing on the record in accordance with such rules and regulations as the Secretary promulgates pursuant to section 10.

(8) **TRAINING.**—

(A) **IN GENERAL.**—The Secretary, the Secretary of State, the Attorney General, and the heads of all other relevant Federal agencies shall require all appropriate personnel to participate in training regarding applicable laws and consultations to facilitate positive government-to-government interactions with Indian Tribes and Native Hawaiian Organizations.

(B) **U.S. CUSTOMS AND BORDER PROTECTION TRAINING.**—The Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, shall require all appropriate personnel of U.S. Customs and Border Protection to participate in training provided by the Secretary of the Interior or an Indian Tribe or Native Hawaiian organization to assist the personnel in identifying, handling, and documenting in a culturally sensitive manner Items Requiring Export Certification for purposes of this Act.

(C) **CONSULTATION.**—In developing or modifying and delivering trainings under subparagraphs (A) and (B), the applicable heads of Federal agencies shall consult with Indian Tribes and Native Hawaiian organizations.

(c) **AGREEMENTS TO REQUEST RETURN FROM FOREIGN COUNTRIES.**—The President may request from foreign nations agreements that specify concrete measures that the foreign nation will carry out—

(1) to discourage commerce in, and collection of, Items Prohibited from Exportation;

(2) to encourage the voluntary return of tangible cultural heritage; and

(3) to expand the market for the products of Indian art and craftsmanship in accordance with section 2 of the Act of August 27, 1935 (49 Stat. 891, chapter 748; 25 U.S.C. 305a)

(commonly known as the “Indian Arts and Crafts Act”).

SEC. 6. VOLUNTARY RETURN OF TANGIBLE CULTURAL HERITAGE.

(a) LIAISON.—The Secretary and the Secretary of State shall each designate a liaison to facilitate the voluntary return of tangible cultural heritage.

(b) TRAININGS AND WORKSHOPS.—The liaisons designated under subsection (a) shall offer to representatives of Indian Tribes and Native Hawaiian organizations and collectors, dealers, and other individuals and organizations trainings and workshops regarding the voluntary return of tangible cultural heritage.

(c) REFERRALS.—

(1) IN GENERAL.—The Secretary shall refer individuals and organizations to 1 or more Indian Tribes and Native Hawaiian organizations with a cultural affiliation to tangible cultural heritage for the purpose of facilitating the voluntary return of tangible cultural heritage.

(2) REFERRAL REPRESENTATIVES.—The Secretary shall compile a list of representatives from each Indian Tribe and Native Hawaiian organization for purposes of referral under paragraph (1).

(3) CONSULTATION.—The Secretary shall consult with Indian Tribes, Native Hawaiian organizations, and the Native working group convened under section 8(a) before making a referral under paragraph (1).

(4) THIRD-PARTY EXPERTS.—The Secretary may use third parties with relevant expertise, including institutions of higher education, museums, dealers, and collector organizations, in determining to which Indian Tribe or Native Hawaiian organization an individual or organization should be referred under paragraph (1).

(d) LEGAL LIABILITY.—Nothing in this section imposes on any individual or entity any additional penalties or legal liability.

(e) TAX DOCUMENTATION.—In facilitating the voluntary return of tangible cultural heritage under this section, the Secretary shall include provision of tax documentation for a deductible gift to an Indian Tribe or Native Hawaiian organization, if the recipient Indian Tribe or Native Hawaiian organization consents to the provision of tax documentation.

(f) REPATRIATION UNDER NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT.—The voluntary return provisions of this section shall apply to a specific item of tangible cultural heritage only to the extent that the repatriation provisions under section 7 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3005) do not apply to the item of tangible cultural heritage.

SEC. 7. INTERAGENCY WORKING GROUP.

(a) IN GENERAL.—The Secretary shall designate a coordinating office to convene an interagency working group consisting of representatives from the Departments of the Interior, Justice, State, and Homeland Security.

(b) GOALS.—The goals of the interagency working group convened under subsection (a) are—

(1) to facilitate the repatriation to Indian Tribes and Native Hawaiian organizations of items that have been illegally removed or trafficked in violation of applicable law;

(2) to protect tangible cultural heritage, cultural items, and archaeological resources still in the possession of Indian Tribes and Native Hawaiian organizations; and

(3) to improve the implementation by the applicable Federal agencies of—

(A) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.); and

(C) other relevant Federal laws.

(c) RESPONSIBILITIES.—The interagency working group convened under subsection (a) shall—

(1) aid in implementation of this Act and the amendments made by this Act, including by aiding in—

(A) the voluntary return of tangible cultural heritage under section 6; and

(B) halting international sales of items that are prohibited from being trafficked under Federal law; and

(2) collaborate with—

(A) the Native working group convened under section 8(a);

(B) the review committee established under section 8(a) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3006(a));

(C) the Cultural Heritage Coordinating Committee established pursuant to section 2 of the Protect and Preserve International Cultural Property Act (Public Law 114-151; 19 U.S.C. 2601 note); and

(D) any other relevant committees and working groups.

SEC. 8. NATIVE WORKING GROUP.

(a) IN GENERAL.—The Secretary shall convene a Native working group consisting of not fewer than 12 representatives of Indian Tribes and Native Hawaiian organizations with relevant expertise, who shall be nominated by Indian Tribes and Native Hawaiian organizations, to advise the Federal Government in accordance with this section.

(b) RECOMMENDATIONS.—The Native working group convened under subsection (a) may provide recommendations regarding—

(1) the voluntary return of tangible cultural heritage by collectors, dealers, and other individuals and non-Federal organizations that hold such tangible cultural heritage; and

(2) the elimination of illegal commerce of cultural items and archaeological resources in the United States and foreign markets.

(c) REQUESTS.—The Native working group convened under subsection (a) may make formal requests to initiate certain agency actions, including requests that—

(1) the Department of Justice initiate judicial proceedings domestically or abroad to aid in the repatriation cultural items and archaeological resources; and

(2) the Department of State initiate dialogue through diplomatic channels to aid in that repatriation.

(d) AGENCY AND COMMITTEE ASSISTANCE.—

(1) IN GENERAL.—On request by the Native working group convened under subsection (a), the agencies and committees described in paragraph (2) shall make efforts to provide information and assistance to the Native working group.

(2) DESCRIPTION OF AGENCIES AND COMMITTEES.—The agencies and committees referred to in paragraph (1) are the following:

(A) The Department of the Interior.

(B) The Department of Justice.

(C) The Department of Homeland Security.

(D) The Department of State.

(E) The review committee established under section 8(a) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3006(a)).

(F) The Cultural Heritage Coordinating Committee established pursuant to section 2 of the Protect and Preserve International Cultural Property Act (Public Law 114-151; 19 U.S.C. 2601 note).

(G) Any other relevant Federal agency, committee, or working group.

(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not

apply to the Native working group convened under subsection (a).

SEC. 9. TREATMENT UNDER FREEDOM OF INFORMATION ACT.

(a) IN GENERAL.—Except as provided in subsection (c), the following information shall be exempt from disclosure under section 552 of title 5, United States Code:

(1) Information that a representative of an Indian Tribe or Native Hawaiian organization—

(A) submits to a Federal agency pursuant to this Act or an amendment made by this Act; and

(B) designates as sensitive or private according to Native American custom, law, culture, or religion.

(2) Information that any person submits to a Federal agency pursuant to this Act or an amendment made by this Act that relates to an item for which an export certification is denied under this Act.

(b) APPLICABILITY.—For purposes of subsection (a), this Act shall be considered a statute described in section 552(b)(3)(B) of title 5, United States Code.

(c) EXCEPTION.—An Indian Tribe or Native Hawaiian organization may request and shall receive its own information, as described in subsection (a), from the Federal agency to which the Indian Tribe or Native Hawaiian organization submitted the information.

SEC. 10. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of State, the Secretary of Homeland Security, and the Attorney General, and after consultation with Indian Tribes and Native Hawaiian organizations, shall promulgate rules and regulations to carry out this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act \$3,000,000 for each of fiscal years 2022 through 2027.

SEC. 12. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New Mexico (Ms. LEGER FERNANDEZ) and the gentleman from Arkansas (Mr. WESTERMAN) each will control 20 minutes.

The Chair recognizes the gentlewoman from New Mexico.

GENERAL LEAVE

Ms. LEGER FERNANDEZ. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the measure under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Mexico?

There was no objection.

Ms. LEGER FERNANDEZ. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2930, the Safeguard Tribal Objects of Patrimony Act of 2021, or STOP Act, will increase the

penalties for trafficking Tribal cultural patrimony and will explicitly prohibit the export of such objects.

The STOP Act will establish Federal frameworks to assist in the repatriation of stolen Tribal objects between Federal agencies and Tribal governments.

Due to colonization, it is no secret that the exploitation of Native American cultural items, like human remains, sacred objects, and other tools, have been looted and sold to collectors around the world.

In the 1970s, the Pueblo of Acoma in New Mexico had their sacred Acoma shield stolen during a robbery on Tribal lands.

Imagine the Tribe's surprise when their sacred Acoma shield was scheduled for sale to the highest bidder at the Eve Auction House in Paris, France.

Thanks to an outpouring of support and diplomatic pleas against the auction house, the sale was stopped. But incidents like this will continue to occur without a codified method to hold traffickers of cultural patrimony accountable.

While the Acoma shield is one example where the sale did not go through, there are countless and numerous other undiscovered and unreported cases where Tribal cultural artifacts and items are sold or auctioned in pure disrespect for their proper ownership and place of reverence.

Cultural items belonging to Native Americans and Native Hawaiians should no longer be considered relics of the past and available to sell to the highest bidder.

It is time for our country to celebrate the cultural items and protect them from exploitation.

The STOP Act will: Direct the Department of the Interior to convene an interagency working group;

Refer individuals and organizations to Indian Tribes and Native Hawaiian organizations to facilitate the voluntary return of human remains and cultural items; and

Convene a Native American working group with representatives from Indian Tribes and Native Hawaiian organizations to provide advice on issues concerning the return of and illegal trade in human remains and cultural items.

The United States is a signatory to an international treaty that entrusts the Federal Government with supporting the repatriation of other countries' tribal objects. We do it for other countries, but we don't do it for our own.

Our Native American Tribes and Native Hawaiians do not have the same statutory mechanism to prevent cultural sacred items in the United States from going overseas to other countries.

The STOP Act requires the Department of the Interior and the Department of State to each designate a liaison to facilitate and hold trainings and workshops on the voluntary return of human remains and cultural items.

The bill reflects significant compromises and adjustments to accommodate concerns of antiquity dealers and has gone through 20 amendments. I was pleased to see these efforts recognized with passage in committee by unanimous consent.

This version reflects negotiations with Tribal leaders, Federal agency experts, and the Authentic Tribal Art Dealers Association. As many know, New Mexico holds the largest Indian art market where artists sell their beautiful creations. The Southwestern Association for Indian Arts, SWAIA, has declared their support for the STOP Act.

Passage of the STOP Act will allow the United States to strengthen its ability to prohibit the exportation of Native American and Native Hawaiian cultural items. Let's not forget that Native American and Native Hawaiian history is our country's history.

The protection of these cultural items must be a priority for our country, because once they are stolen and taken out of our country, they become lost to those who revere them.

Madam Speaker, I urge the swift adoption of H.R. 2930, and I reserve the balance of my time.

Mr. WESTERMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, Congress has long recognized the importance of Native American Tribal cultural items and their historical, traditional, and cultural importance to Native American Tribes.

Approximately 137 million Native American artifacts, works of art, and specimens are in the Smithsonian's collections according to the Government Accountability Office.

Both the Archaeological Resources Protection Act and the Native American Graves Protection and Repatriation Act provide a legal framework for the repatriation of human remains and cultural items to Indian Tribes.

While these two statutes have greatly reduced the sale of cultural items within the United States, many items have appeared in European auctions where they have little legal protection from being sold.

In recent years, Paris auction houses facilitated the sale of Hopi, Navajo, and Acoma Tribal masks and ceremonial items.

The U.S. Government attempted to intervene to prevent the sales, but the French government and the auction houses maintained that they were legal.

In response to this problem, former Congressman Steve Pearce introduced a concurrent resolution in March of 2016 condemning these sales and requesting that the U.S. Comptroller General conduct a report on the issue.

The Safeguard Tribal Objects of Patrimony Act, or the STOP Act, would expand legal protections to Native American Tribal artifacts and sacred objects by increasing criminal pen-

alties for repeat traffickers of Native American human remains or cultural items and banning the export of illegally obtained items.

The Department of the Interior would be required to form an interagency working group to facilitate repatriation of items and protect items currently in an Indian Tribe's possession.

To incentivize repatriation, the bill would allow immunity from prosecution if an individual voluntarily surrenders to the appropriate Tribe the Native American cultural objects in his or her possession within 2 years of enactment.

I want to thank the sponsor of the legislation for working with stakeholders impacted by this bill, including the Acoma, the Pueblo, the Antique Tribal Art Dealers Association, the Department of the Interior, the Department of Justice, and others.

It is important that we protect items of cultural and historic significance to our Indian Tribes.

Madam Speaker, I reserve the balance of my time.

Ms. LEGER FERNANDEZ. Madam Speaker, I yield myself such time as I may consume.

I, too, wish to thank the really incredible support and working relationship that we have developed with the ranking member and other members of the committee. This is a bipartisan bill, and it has taken some work to get it where it is today, but I think that we are all supportive of it.

The really wonderful thing is that when I am home in New Mexico, I am asked about this bill repeatedly, because the Nations want to see their works protected.

These are cultural items that belong with those who know how to revere them, who know how to protect them, who know how to care for them. It is something that you will hear Tribes across this country, not only in New Mexico, ask Congress to take action on. I am very pleased that we are taking action today on the STOP Act.

Madam Speaker, I reserve the balance of my time.

Mr. WESTERMAN. Madam Speaker, I encourage adoption of this legislation, and I yield back the balance of my time.

Ms. LEGER FERNANDEZ. Madam Speaker, I urge my colleagues to support the legislation. I see that in the Chamber, we have Representative YOUNG, who is a cosponsor. I would also like to thank Representatives COLE and RADEWAGEN for joining in this bill. It does have bipartisan support.

I urge my colleagues to support the legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New Mexico (Ms. LEGER FERNANDEZ) that the House suspend the rules and pass the bill, H.R. 2930, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BIGGS. Madam Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

□ 1245

REAFFIRMING THE AUTHORITY OF THE SECRETARY OF THE INTERIOR TO TAKE LAND INTO TRUST FOR INDIAN TRIBES

Ms. LEGER FERNANDEZ. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4352) to amend the Act of June 18, 1934, to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian Tribes, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAFFIRMATION OF AUTHORITY.

(a) MODIFICATION.—

(1) IN GENERAL.—The first sentence of section 19 of the Act of June 18, 1934 (25 U.S.C. 5129), is amended—

(A) by striking “The term” and inserting “Effective beginning June 18, 1934, the term”; and

(B) by striking “any recognized Indian tribe now under Federal jurisdiction” and inserting “any federally recognized Indian Tribe”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the Act of June 18, 1934 (commonly known as the “Indian Reorganization Act”; 25 U.S.C. 5101 et seq.), on the date of the enactment of that Act.

(b) RATIFICATION AND CONFIRMATION OF ACTIONS.—Any action taken by the Secretary of the Interior pursuant to the Act of June 18, 1934 (25 U.S.C. 5101 et seq.), for any Indian Tribe that was federally recognized on the date of the action is ratified and confirmed, to the extent such action is subjected to challenge based on whether the Indian Tribe was federally recognized or under Federal jurisdiction on June 18, 1934, as if the action had, by prior Act of Congress, been specifically authorized and directed.

(c) EFFECT ON OTHER LAWS.—

(1) IN GENERAL.—Nothing in this section or the amendments made by this section affects—

(A) the application or effect of any Federal law other than the Act of June 18, 1934 (25 U.S.C. 5101 et seq.), as amended by subsection (a); or

(B) any limitation on the authority of the Secretary of the Interior under any Federal law or regulation other than the Act of June 18, 1934 (25 U.S.C. 5101 et seq.), as amended by subsection (a).

(2) REFERENCES IN OTHER LAWS.—An express reference to the Act of June 18, 1934 (25 U.S.C. 5101 et seq.), contained in any other Federal law shall be considered to be a reference to that Act as amended by subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from

New Mexico (Ms. LEGER FERNANDEZ) and the gentleman from Arkansas (Mr. WESTERMAN) each will control 20 minutes.

The Chair recognizes the gentlewoman from New Mexico.

GENERAL LEAVE

Ms. LEGER FERNANDEZ. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the measure under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Mexico?

There was no objection.

Ms. LEGER FERNANDEZ. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4352 amends section 19 of the Indian Reorganization Act to allow the Secretary of the Interior to take land into trust for federally recognized Indian Tribes regardless of their date of recognition.

Over a decade ago, in the *Carcieri v. Salazar* case, the Supreme Court held that the Secretary of the Interior's authority under the Indian Reorganization Act to place land into trust for a Tribe applies only to Tribes that were under Federal jurisdiction in 1934.

Before the *Carcieri* decision, the Department of the Interior, under previous administrations, had consistently interpreted the Indian Reorganization Act as authorizing the Department to take land into trust for any Tribe as long as the Tribe was federally recognized at the time of its land-into-trust application.

Placing land into trust is vital for Tribal sovereignty and self-determination. We must remember that most of the land sought to be placed in trust is actually historic land, aboriginal land of the Tribes themselves, and they are simply seeking to reacquire it and to have the same trust protections placed on that land as their other land.

Placing land into trust also confers important protections, benefits, and flexibility for Tribes, including protections essential for supporting Tribal cultural practices and well-being as well as their ability to exercise jurisdiction over that land.

However, the *Carcieri* decision overturned 75 years of Department of the Interior practice by holding that the Indian Reorganization Act provided the Interior Department with authorization to take land into trust only for Tribes that were federally recognized at the time of the enactment of the Indian Reorganization Act of 1934.

As a result, the Court's decision created a two-tier system of the haves and have nots among federally recognized Tribes applying for trust land acquisition.

Now, Tribes that have been recognized after 1934 cannot apply with the Interior Department to have land taken into trust. Instead, each of these Tribes must seek new legislation from

Congress every single time they have a similar land request.

We have already seen the real-world consequences of the *Carcieri* decision, as year after year Congress has to pass stand-alone bills for individual Tribes on a piecemeal basis to protect their lands. In fact, in a few moments we will consider exactly such a bill.

The *Carcieri* decision also opened up Tribes to costly lawsuits regarding land that they have held in trust for years, sometimes decades. It has taken almost a century for us to begin undoing the damage we inflicted on our Nation's indigenous peoples upon colonial contact.

The 1934 Indian Reorganization Act was an important step in that healing process with the Tribes, but we now know that our work is not yet done. We are still federally acknowledging Tribes to this day. We passed a Tribal recognition bill here in the House on November 1.

To this day, Congress is still working to right many wrongs from the Federal Government. We are still striving to return a portion, just a small portion of the land back to the Tribes.

To say that Tribes federally recognized after 1934 are somehow inferior to Tribes federally recognized before is dangerously ignorant of the idea that we right now are on Indian land.

H.R. 4352, introduced by the gentlewoman from Minnesota (Ms. MCCOLLUM), will right this wrong and amend the Indian Reorganization Act to ensure that all federally recognized Tribes are treated equally, regardless of their date of recognition.

For more than a decade, the *Carcieri* decision has caused anxiety and confusion in Indian Country. It has created dangerous legal ambiguities related to Indian trust lands.

Passing this bill will remove the ambiguity and uncertainty surrounding land into trust and finally offer all 574 federally recognized Tribal nations peace of mind that their lands can be protected.

I urge the swift adoption of the bill, and I reserve the balance of my time.

Mr. WESTERMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as the gentlewoman described, this is a very complex issue with a long history behind it. H.R. 4352 would reverse a 2009 Supreme Court decision, *Carcieri v. Salazar*, which held that the Indian Reorganization Act does not authorize the Secretary of the Interior to acquire land in trust for Tribes that were not under Federal jurisdiction in 1934 when the act was passed.

The *Carcieri* decision created vast uncertainty over the fee-to-trust process for Tribes and impacted stakeholders. Since the decision was handed down, there has been no resolution in this incredibly complex issue.

Lands taken into trust are extremely important to Tribes. Tribes' desire to increase their Tribal land base and help