To amend title 18, United States Code, to enhance protections of Native American tangible cultural heritage, and for other purposes.

IN THE SENATE OF THE UNITED STATES
JUNE 21, 2017

Mr. Heinrich (for himself, Mr. Flake, Mr. Udall, Mr. McCain, Mr. Schatz, Mr. Daines, Mr. Tester, and Ms. Murkowski) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend title 18, United States Code, to enhance protections of Native American tangible cultural heritage, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE. 
4 This Act may be cited as the “Safeguard Tribal Ob-
5 jects of Patrimony Act of 2017”.
SEC. 2. ENHANCED PROTECTIONS FOR NATIVE AMERICAN CULTURAL HERITAGE.

(a) Enhanced Penalties.—Section 1170 of title 18, United States Code, is amended by striking “5 years” each place it appears and inserting “10 years”.

(b) Prohibition of Exporting Native American Cultural Heritage.—Chapter 53 of title 18, United States Code, is amended by adding at the end the following:

“§ 1171. Illegal exportation of Native American cultural heritage

“(a) Definitions.—In this section:

“(1) Archaeological resource.—The term ‘archaeological resource’ has the meaning given the term in section 3 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb).

“(2) Cultural item.—The term ‘cultural item’ has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).

“(3) Native American.—The term ‘Native American’ has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).
“(b) PROHIBITION.—It shall be unlawful for any person to knowingly export or otherwise transport from the United States any—

“(1) Native American cultural item that was obtained in violation of section 1170 of this title or section 3(c) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(e));

“(2) Native American archaeological resource that was obtained in violation of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.); or

“(3) Native American object of antiquity that was obtained in violation of section 1866(b) of this title.

“(c) PENALTY.—Any person who violates subsection (b) shall—

“(1) in the case of a first violation under this section, be fined under this title, imprisoned for not more than 1 year, or both; and

“(2) in the case of a second or subsequent violation under this section, be fined under this title, imprisoned for not more than 10 years, or both.”.

(e) REGULATIONS.—The Attorney General and Secretary of Homeland Security, in consultation with the Secretary of the Interior, shall prescribe such rules and regu-
lations as are necessary and appropriate to carry out the amendments made by this section.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 18, United States Code, is amended by adding at the end the following:

“1171. Illegal exportation of Native American cultural heritage.”.

SEC. 3. DEFINITIONS.

In this Act:

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

(2) NATIVE AMERICAN.—The term “Native American” has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).

(3) 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).

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(5) 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. VOLUNTARY RETURN OF TANGIBLE CULTURAL HERITAGE.

(a) Policy.—It shall be the policy of the United States to encourage the voluntary return of tangible cultural heritage to Indian tribes and Native Hawaiian organizations by collectors, dealers, and other individuals and non-Federal organizations that hold such heritage.

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

(c) Trainings and Workshops.—The individuals listed in subsection (b) shall hold trainings and workshops for representatives of Indian tribes and Native Hawaiian organizations and collectors, dealers, and other individuals and non-Federal organizations regarding the voluntary return of tangible cultural heritage.

(d) Referrals.—

(1) In general.—The Secretary shall refer individuals and organizations to one or more Indian tribes or Native Hawaiian organizations with a likely
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 con-
sult with Indian tribes and Native Hawaiian organi-
zations that possess unique expertise in their cul-
tural heritage before making a referral under para-
graph (1).

(4) Third-Party Experts.—The Secretary
may utilize knowledgeable experts from regional aca-
demic institutions and museums to aid in making
determinations regarding to which Indian tribe or
Native Hawaiian organization an individual or organ-
ization should be referred under paragraph (1).

SEC. 5. TRIBAL WORKING GROUP.

(a) In General.—The Secretary shall convene a
tribal working group consisting of representatives of In-
dian tribes and Native Hawaiian organizations to advise
the Federal Government.
(b) RECOMMENDATIONS.—The tribal working group convened under subsection (a) may provide recommendations regarding—

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

(2) the elimination of illegal commerce in tangible cultural heritage in the United States and foreign markets; and

(3) the repatriation to Indian tribes and Native Hawaiian organizations of tangible cultural heritage that have been illegally removed or trafficked in violation of Federal law.

(c) AGENCY AND COMMITTEE ASSISTANCE.—

(1) IN GENERAL.—The agencies and committees described in paragraph (2) shall provide information and assistance to the tribal working group convened under subsection (a) upon request by the tribal working group.

(2) AGENCIES AND COMMITTEES.—The agencies and committees described in this paragraph 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.
(G) Any other relevant Federal agency.