

**Response to Questions from Rep. Westerman
Committee on Natural Resources
Subcommittee for Indigenous Peoples of the United States
Remote Legislative Hearing - May 20, 2021 12:00 p.m.
Legislative Hearing on H.R. 438, H.R. 2930, RESPECT Act**

Questions from Representative Westerman

1. In your testimony, you stated that this bill could potentially include commercially made items such as jewelry, sculpture, and textiles purchased by tourists. Could you elaborate more on why you believe this would occur if H.R. 2930 is enacted?

Cong. Westerman, thank you for your question. Section 5(b)(1)(B)(ii)(I) of H.R. 2930 excludes from possible tribal claims only items made “solely” for commercial purposes. Under these terms, categories of commercial items that have other non-commercial uses including jewelry, rugs, beadwork, textiles, ceramics, kachinas and other wood carvings could be deemed unlawful to export without a permit. Moreover, the legislation also grants Tribes the ability to halt exports even of solely commercial items if Tribes challenge this presumption.

Bottom line, this provision would grant Native American political entities full authority and extra-territorial jurisdiction to define what is inalienable cultural heritage even if it is lawfully owned private property. As a practical matter, since there is no dollar value or age limit, it will require art dealers and tourists to submit virtually ALL items for an unlimited time review in order to avoid possible seizure.

This will impact Native American artisans just as it will affect art dealers. It will serve as a de facto embargo on export of low value items due to the costs and time involved. It will trap innocent people in technical violations instead of catching criminals.

2. What amendments would you make to the bill to ensure commercial items are not included in the export requirements?

Cong. Westerman, thank you for your question asking how the language in Section 5(b)(1)(B)(ii)(I) of H.R. 2930 might be modified to exclude commercial items as is the legislation’s stated intent. The current language qualifies the exclusion thereby neutering it. Specifically, the current bill language reads:

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;

The language should be amended to remove the qualifying language to read:

An item made for commercial purposes is presumed to not qualify as an Item Requiring Export Certification

This simple change would ensure that there was a commercial exclusion in fact, as well as, in name. Thank you for your question. It was an honor to speak before the committee.

Sincerely,

/s/ Robert Gallegos
Treasurer, Authentic Tribal Art Dealers' Association (ATADA)

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