

Date of Hearing: April 17, 2018

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Kansen Chu, Chair

AB 2836 (Gloria) – As Amended March 22, 2018

SUBJECT: Native Americans: repatriation.

SUMMARY: This bill would require the University of California regents, or their designee, to establish and support a system wide Native American Graves Protection and Repatriation Act Implementation and Oversight Committee, with specified membership, and for any campus subject to the federal Native American Graves Protection and Repatriation Act, a campus implementation committee with specified membership and duties as defined, and to timely submit the policies, procedures, and guidelines to the Native American Heritage Commission for review and approval by July 1, 2019. Specifically, **this bill:**

- 1) Requests the Regents of the University of California to establish a system wide Native American Graves Protection and Repatriation Act Implementation and Oversight Committee, (U.C. NAGPRA Committee) with membership as specified.
- 2) Requests each campus of the University of California that is subject to the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.) to establish a campus Native American Graves Protection and Repatriation Act Implementation Committee, which shall also be known as the NAGPRA Committee for that campus, with membership as specified.
- 3) Requests the Regents to support the U.C. NAGPRA Committee and each campus NAGPRA Committee, as well as adopt and implement system wide policies regarding the culturally appropriate treatment of Native American human remains and cultural items while in the possession of a University of California campus or museum, including policies regarding research requests and testing following the submission of a request for repatriation.
- 4) Allows a campus NAGPRA Committee to adopt additional policies, procedures, or guidelines to supplement the system wide policies, as specified.
- 5) Requests that all claims for repatriation or claims of any violation of the policies, procedures, or guidelines adopted pursuant to the bill's provisions shall be submitted to the campus NAGPRA Committee for determination.
- 6) Allows the Regents of the University of California to delegate their responsibilities created pursuant to this article to the President of the University of California or another person determined to be appropriate.
- 7) Requires the California State Auditor to conduct an audit every two years regarding the University of California's compliance with the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.) and this chapter.

- 8) Further requires the State Auditor shall report its findings to the Legislature and to all other appropriate entities.
- 9) Requires the Native American Heritage Commission to do the following:
 - a) Solicit, review, and nominate persons for membership on the system wide Native American Graves Protection and Repatriation Act Implementation and Oversight Committee.
 - b) Solicit, review, and nominate persons for membership on the campus Native American Graves Protection and Repatriation Act Implementation Committees.
 - c) Review, provide comment and guidance on, and approve all policies, procedures, and guidelines proposed pursuant to Article 3 (commencing with Section 8025) of Chapter 5 of Part 2 of Division 7 of the Health and Safety, which this bill would create.
- 10) Makes additional conforming and technical changes to law.
- 11) Makes various Legislative findings and declarations.

EXISTING FEDERAL LAW: The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) (Public Law 101- 601; 25 U.S.C. 3001-3013), (NGPRA), in summary provides as follows:

- 1) Requires federal agencies and institutions, including museums that receive federal funding, to repatriate "cultural items" to lineal descendants and culturally affiliated Indian tribes and Native Hawaiian organizations, as provided.
- 2) Defines cultural items to include human remains, funerary objects, sacred objects, and objects of cultural patrimony, as specified.
- 3) Declares that the Secretary of the Interior may assess civil penalties on museums that fail to comply.
- 4) Establishes procedures for the inadvertent discovery or planned excavation of Native American cultural items on federal or tribal lands.
- 5) Makes it a criminal offense to traffic in Native American human remains without right of possession or in Native American cultural items obtained in violation of the Act, as provided.
- 6) Establishes penalties for trafficking in remains or cultural items, including up to 12 months imprisonment and a \$100,000 fine for first offender violations.

EXISTING STATE LAW: The California Native American Graves Protection and Repatriation Act, California Health and Safety Code Sections, 8010, et seq.:

- 1) States the intent of the Legislature to:
 - a) Provide a seamless and consistent state policy to ensure that all California Indian human remains and cultural items be treated with dignity and respect.

- b) Apply the state's repatriation policy consistently with the provisions of the Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.), which was enacted in 1990.
 - c) Facilitate the implementation of the provisions of the federal Native American Graves Protection and Repatriation Act with respect to publicly funded agencies and museums in California.
 - d) Encourage voluntary disclosure and return of remains and cultural items by an agency or museum.
 - e) Provide a mechanism whereby lineal descendants and culturally affiliated California Indian tribes that file repatriation claims for human remains and cultural items under the Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.) or under this chapter with California state agencies and museums may request assistance from the commission in ensuring that state agencies and museums are responding to those claims in a timely manner and in facilitating the resolution of disputes regarding those claims.
 - f) Provide a mechanism whereby California tribes that are not federally recognized may file claims with agencies and museums for repatriation of human remains and cultural items.
- 2) Requires that any agency or museum that has possession or control over collections of California Native American human remains and associated funerary objects shall complete an inventory of all these remains and associated funerary objects, as specified.
- 3) Provides for a tribe claiming state cultural affiliation and requesting the return of human remains and cultural items listed in the inventory or summary of an agency or museum that requests the return of human remains and cultural items that are not listed in the inventory but are believed to be in the possession or control of the agency or museum in the state, shall do both of the following:
- a) File a written request for the human remains and cultural items with the commission and the agency or museum believed to have possession or control.
 - b) Provide evidence that would establish that items claimed are cultural items and are culturally affiliated with the California Indian tribe making the claim. Evidence of cultural affiliation need not be provided in cases where cultural affiliation is reasonably established by the inventory or summary.
- 4) States that upon receiving a written request for repatriation of an item on the inventory, the commission shall forward a copy of the request to the agency or museum in possession of the item and publish the request for repatriation on its Web site for 30 days, as specified.
- 5) Declares, if there are no other requests for a particular item and there is not unresolved objection, as specified, repatriation shall occur within 30 days after the last day of the 90-day notification posting period as specified, or on a date agreed upon by all parties.

- 6) Provides that nothing in this section shall be construed to prohibit any requesting party, a tribe, an agency, or a museum from coordinating directly with each other on repatriation, or to prohibit the repatriation at any time of any undisputed items to the requesting party prior to completion of any requirements set forth in this chapter.

The commission shall receive, for their records, copies of all repatriation agreements and shall have the power to enforce these agreements.

- 7) Creates a dispute resolution process if there is more than one request for repatriation for the same item, or there is a dispute between the requesting party and the agency or museum, or if a dispute arises in relation to the repatriation process, as detailed.
- 8) Expresses that terms shall have the same meaning as in the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.), as interpreted by federal regulations, except that specified terms, including the below, shall have the following meaning:
 - a) “Agency” means a division, department, bureau, commission, board, council, city, county, city and county, district, or other political subdivision of the state, but does not include a school district.
 - b) “Burial site” means, except for cemeteries and graveyards protected under existing state law, a natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which human remains were intentionally deposited as a part of the death rites or ceremonies of a culture.
 - c) “Commission” means the Native American Heritage Commission.
 - d) “Cultural items” shall have the same meaning as defined by Section 3001 of Title 25 of the United States Code, except that it shall mean only those items that originated in California.
 - e) “State cultural affiliation” means that there is a relationship of shared group identity that can reasonably be traced historically or prehistorically between members of a present-day California Indian Tribe, and an identifiable earlier tribe or group. Cultural affiliation is established when the preponderance of the evidence, based on geography, kinship, biology, archaeology, linguistics, folklore, oral tradition, historical evidence, or other information or expert opinion, reasonably leads to such a conclusion.
 - f) “Inventory” means an itemized list that summarizes the collection of human remains and associated funerary objects in the possession or control of an agency or museum. This itemized list may be the inventory list required under the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.).
 - g) “Museum” means an entity, including a higher educational institution, excluding school districts that receive state funds.
 - h) “California Indian tribe” means any tribe located in California to which any of the following applies:

- i) It meets the definition of Indian tribe under the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.).
 - ii) It is not recognized by the federal government, but is indigenous to the territory that is now known as the State of California, and both of the following apply.
 - iii) It is listed in the Bureau of Indian Affairs Branch of Acknowledgement and Research petitioner list pursuant to Section 82.1 of Title 25 of the Federal Code of Regulations.
 - iv) It is determined by the commission to be a tribe that is eligible to participate in the repatriation process set forth in this chapter.
- 9) Requires the commission to publish a document that lists the California tribes meeting these criteria, as well as authorized representatives to act on behalf of the tribe.
- 10) Provides that any agency or museum that fails to comply with the requirements of this chapter may be assessed a civil penalty by the commission, not to exceed twenty thousand dollars (\$20,000) for each violation, pursuant to regulations adopted by the commission.
- 11) Further provides that a penalty assessed under this section shall be determined on the record after the opportunity for a hearing.

FISCAL EFFECT: Unknown. This bill has been keyed fiscal by the Legislative Council.

COMMENTS:

- 1) *Author and supporters stated need to legislation: provide a consistent and enforceable set of procedures for repatriation of Native American remains and artifacts.* According to the author, "Even though there is both a federal and state law governing the return of human remains and funerary objects, the application of these statutes has been inconsistent at best, which has failed to ensure the UC system's compliance with the federal law. California tribal governments are finding there are no system-wide standards and best practices in place for compliance with NAGPRA, resulting in widely disparate application of the law among campuses and museums. The lack of standards and clear guidance has also contributed to the dismissal of tribal concerns regarding repatriation and limited participation by tribal governments in NAGPRA processes related to their ancestral remains. Current UC policy on the return of human remains only "encourages" the consideration of "stakeholder" views, and places an emphasis on the scientific value of human remains to the near exclusion of repatriation. Finally, on some campuses, the entities responsible for making determinations regarding repatriation are comprised nearly completely of those with research interests, excluding vital tribal voices and those views from scholars in fields such as Native American or Ethnic studies. The individuals who sit on these committees are not required to have any experience in working collaboratively with tribes nor hold any specific academic background that may be beneficial for considering the return of human remains and funerary objects to their affiliated tribal communities. Tribes have for years (see legislative history of AB 978 for concerns regarding UC repatriation practices and the February 26, 2008, Senate Governmental Organization Committee review of U.C. Berkeley's reorganization of its NAGPRA unit) complained about repatriation failures in the UC system and change is

unlikely without mandatory compliance standards to which the UC system and all its campuses and museums are held accountable."

The Pechanga Band of Luiseño Indians are lead supporters of this legislation, and as such wrote to express their concerns with existing UC policy and support of AB 2836, saying. "In 2001 - eleven years after the enactment of NAGPRA - the State of California passed its own statute due in part to its long and disgraceful history of noncompliance with repatriation of Native American remains and cultural items. An intent of AB 978 (Steinberg, statutes of 2001) was 'to provide a seamless and consistent state policy to ensure that all California Indian human remains and cultural items be treated with respect and dignity.' Moreover, the bill sought to require all agencies and museums in California receiving public funding to provide for the repatriation of human remains and cultural items to the appropriate tribes in this State.

"Sadly, application of the statute has been inconsistent at best and ignored at worse and is failing to ensure compliance with federal law by all campuses and museums of the UC system. Seventeen years after the passage of AB 978, California tribal governments are finding there are no system-wide standards and best practices in place for compliance with NAGPRA Compliance and cooperation by the UCs vary widely, from successful collaboration with schools like UCLA that have repatriated 90% of its human remains holdings to UC Berkley, which has consistently obstructed tribal government efforts to repatriate and properly respect human remains and cultural items.

"As a result, UC Berkley houses one of the largest collections of Native American human remains outside of the Smithsonian Institution. The repatriation of our ancestral remains has been delayed or thwarted by institutions of the UC system who claim they are too old to be Native American, or that they are too important to science, or simply deny that our communities are affiliated with these ancestors.

"A critical missing link in existing law is the lack of minimum standards by all UC campuses. The UC's current Policy and Procedures on Curation and Repatriation of Human Remains and Cultural Items (2001), for example, does not mandate campus-level processes, but rather, only encourages campuses to solicit input from tribes and additional University faculty members. The absence of required policies for repatriation has led some UC campuses to exclude or limit the participation of tribal representatives, thereby denying valuable knowledge to the repatriation process. Additionally, decisions made on this issue will primarily impact tribal communities in the most personal of ways."

2) *Background:*

- a) *State repatriation law.* Existing state law, created by AB 978 (Steinburg) discussed in detail in the Existing State Law above and comment 4 below, requires creation of a ten-member appointed Repatriation Commission with authority to order repatriation, to mediate disputes, to subpoena, and to impose civil penalties for violations. The bill required any agency or museum that has possession or control over collections of California Native American human remains and associated funerary object to complete inventories and specified timelines and methods for their repatriation. However this Act was never fully implemented and the commission was not established. Instead, according to their website, the California Native American Heritage Commission has taken over the

work of the Native American Repatriation Commission established by AB 978, and now works with museums, community colleges, state universities, private universities, and the University of California campuses on issues including issues related to the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) and CalNAGPRA (SB 978).

Under state law, as state trustee, it is the role and responsibility of the Native American Heritage Commission (NAHC) to protect tribal cultural resources through fostering cooperative working relationships between California Native American tribes, state and local agencies, private landowners, developers, environmental consultants, and museums. But the NAHC has faced challenges meeting its goals, as the recent Draft Five-Year Strategic Plan, Second Draft (Action item, January 19, 2018 Commission Meeting) points out, the Commission is not currently staffed or funded to complete all of its assigned duties under various laws. As a result of its placement under the overburdened NAHC, many of AB 978's provisions are not able to be fully implemented, and issues are not able to be timely addressed.

- b) *The University of California Policy and Procedures on Curation and Repatriation of Human Remains and Cultural Items.* UC states in its policy summary the balance of interests that the University strives to achieve with regard to repatriation and maintenance of human remains and cultural items:

"It is the policy of the University of California to assure that the respectful and dignified treatment of human remains and the consideration of living descendants of those deceased. The University recognizes that individuals and communities have cultural and religious concerns that must be considered in determining the treatment and disposition of human remains in its collections. At the same time, the University's collections of human remains and Cultural Items serve valuable educational and research purposes important to the enhancement of knowledge in various disciplines. The University maintains these collections as a public trust and is responsible for preserving them according to the highest standards while fulfilling its mission to provide education and understanding about the past and present through continued teaching, research and public service."

Toward these competing goals, the University created a Policy and Procedures (Policy) and a University Advisory Group on Cultural Affiliation and Repatriation of Human Remains and Cultural Items ("Advisory Group"), for handling their requirements relative to Native American human remains and cultural items under state and federal law, which "shall be composed of one University faculty member delegated principal responsibility for compliance with this policy from each of those campuses that house collections covered by NAGPRA, and two Native American members to be selected by the President or designee from among nominees submitted by each campus. The Vice Provost for Research (or designee) will be the UC Office of the President liaison to the Advisory Group."

According to the Policy, campuses are encouraged to solicit input on significant policy matters, as appropriate, from members of Native American and Native Hawaiian groups and from additional University faculty members drawn from a variety of disciplines in

which the study, treatment, curation, and repatriation of human remains is relevant. Campuses are encouraged to forward input received from such consultations to the Office of the President via their Advisory Group representative.

The Policy contains procedures for implementation, including a required review of Inventories of Native American and Native Hawaiian human remains and associated objects as follows: "In accordance with NAGPRA, each campus with Native American or Native Hawaiian human remains and associated funerary objects shall complete inventories of all such remains and associated funerary objects in its collections by reviewing existing documentation. Campus inventories shall draw on the best available academic expertise and involve consultation with tribal authorities representing Native American and Native Hawaiian groups. The inventories shall include descriptions of human remains and associated funerary objects and shall, to the extent possible, identify the geographical and cultural affiliation of those human remains and associated Cultural Items, as required by NAGPRA. ...

"Upon request by lineal descendants or appropriate tribal authorities, the campus shall provide additional available documentation to supplement the information provided in the campus inventories. Existing information is sufficient to fulfill this requirement; no additional scientific studies need be undertaken to provide such information."

The Policy also requires each campus to complete "a written summary of Native American and Native Hawaiian unassociated funerary objects, sacred objects, and objects of cultural patrimony held in its collections, and declares that these summaries provide a basis for further consultations with Native American and Native Hawaiian tribal authorities to determine cultural affiliation. Final campus summaries shall be submitted to federal agencies, lineal descendants, Native American tribes and Native Hawaiian organizations, as required by law."

In addition, the Policy states that, "Upon request by lineal descendants or appropriate tribal authorities, the campus shall provide access to records, catalogues, relevant studies, or other pertinent data for the purpose of determining the geographic origin, cultural affiliation and basic facts surrounding the acquisition and accession of objects covered in the summary."

The Policy claims, "to the extent possible, campus inventories and summaries shall identify the Cultural Affiliation of human remains, funerary objects, sacred objects, and objects of cultural patrimony, as defined by federal law." And states that "Under NAGPRA, all of the following requirements must be met to determine cultural affiliation between a present-day Indian tribe or Native Hawaiian organization and human remains, funerary objects, sacred objects, or objects of cultural patrimony of an earlier group:

- Existence of an identifiable present-day Indian tribe or Native Hawaiian organization with standing under NAGPRA;
- Existence of an identifiable earlier group; and
- Existence of a shared group identity that can be reasonably traced between the present-day Indian tribe or Native Hawaiian organization and the earlier group.

Evidence to support this requirement must establish that a present-day Indian tribe or Native Hawaiian organization has been identified from prehistoric or historic times to the present as descending from the earlier group."

The Policy allows Tribal authorities "reasonable access to examine items in the University's collections in order to evaluate the cultural affiliation of items listed in the inventory as culturally unidentifiable. They shall also be given reasonable opportunity, upon request, to present their views orally or in writing to campus officials responsible for NAGPRA implementation regarding the identification of any such human remains, funerary objects, sacred objects, or objects of cultural patrimony. The perspectives of such tribal authorities shall be considered in determining cultural affiliation."

The Policy states that review of repatriation requests shall reflect consideration of academic expertise and Native American or Native Hawaiian viewpoints, and shall provide consultation with requesting individuals or tribes, as required by NAGPRA, and provides upon the written request of a lineal descendant, Indian tribe or Native Hawaiian organization, or California-recognized Indian tribe, the University will expeditiously repatriate human remains, funerary objects, sacred objects, and objects of cultural patrimony if lineal descent has been established or if cultural affiliation between the requesting tribe or organization and the requested remains or Cultural Items has been established in accordance with federal law and if all other requirements for repatriation of such human remains or Cultural Items as set forth in federal law are met, and provides for repatriation to a non-federally-recognized California-recognized tribe under specified circumstances and for resolution of repatriation disputes.

The Policy makes allowance for the teaching and research use of human remains and cultural items. It expressly provides that, "Campuses are granted the authority to make decisions about the use of Native American or Native Hawaiian human remains, associated and unassociated funerary objects, sacred objects, sacred objects, and objects of cultural patrimony in University collections for teaching and research purposes, subject to the following guidelines:

- Given the importance of the study of human osteology in archaeology, paleontology, and comparative morphology, and the importance of skeletal material in training students at the lower division, upper division and graduate level, campuses normally retain the discretion to use such items in teaching. Campuses are encouraged to take into consideration the views and concerns of Native American and Native Hawaiian representatives when making decisions regarding the teaching and research use of Native American and Native Hawaiian skeletal materials.
- Remains and Cultural Items covered by this policy shall normally remain accessible for research by qualified investigators, subject to approval by the curator of the relevant campus collection.
- Once a repatriation request has been granted and actual repatriation is pending, the remains and Cultural Items covered by the request shall not be used in teaching or

research unless expressly permitted by the tribal authority that has been granted jurisdiction over the materials, subject to exceptions provided by federal law.

- In circumstances in which cultural affiliation (or cultural association) has been established and other repatriation requirements have been met but in which an affiliated (or associated) tribe has chosen not to request repatriation, an affiliated (or associated) tribe may request that the affiliated (or associated) remains or Cultural Items not be used for teaching or research. The decision of the affiliated (or associated) tribe as to whether the remains and cultural items can be used in teaching or research shall normally be accepted as final by the University, subject to exceptions provided by federal law."

3) *Informational hearing: Senate Governmental Organization Committee held a hearing on February 26, 2008, entitled, "A Review of U.C. Berkeley's Reorganization of the Native American Graves Protection and Repatriation Act (NAGPRA) Compliance Unit in the Phoebe Hearst Museum of Anthropology."*

While there is no written record of the hearing, a transcript of the proceeding is available, and contemporaneous media reports describe the nature and substance of the hearing. From the Los Angeles Times, "The remains of about 12,000 Native Americans lie in drawers and cabinets in the (UC Berkeley Hearst) gym's basement. Most of them were dug up by university archaeologists and have been stored under the pool since at least the early 1960s. Now the bones are at the center of a dispute between Native Americans, who want to rebury their ancestors, and university officials, who have been slow to hand over the remains. Some tribal leaders contend that the university is violating a federal law that governs the repatriation of artifacts and remains. The bones, along with 400,000 Native American artifacts, are held by UC's Phoebe A. Hearst Museum of Anthropology, which has a small exhibit space on campus but one of the largest collections of human remains in the U.S. outside a cemetery.

"Under the 1990 federal Native American Graves Protection and Repatriation Act, the museum is required to identify the tribal origins of its bones and artifacts and return them to federally recognized tribes that request them. So far, the museum has repatriated the bones of about 260 individuals. The museum's possession of so many remains troubles Indians who believe that the spirits of their ancestors cannot rest until their bones are properly buried.

"Controversy over the remains has been fueled by the museum's decision in June to disband the small unit that handled the job of reuniting the remains with their tribes and to incorporate that task into overall museum operations. UC officials say the reorganization was necessary because the unit was "dysfunctional" and plagued by personnel problems. But some tribal representatives contend that the museum got rid of the unit because its interim coordinator, Native American anthropologist Larri Fredericks, was too helpful to the tribes.

"Berkeley administrators deny that they are improperly keeping the bones and say they are moving to repatriate them as quickly as the complex law allows. They also say that the museum reorganization will benefit the tribes by involving all museum staff in the repatriation process. "We have followed the law and will follow the law," UC Berkeley

Chancellor Robert J. Birgeneau said. Birgeneau, who is of mixed native and Canadian ancestry, says Berkeley is the victim of a "campaign of vilification" by a small group of critics." (*Native Americans say Berkeley is no place for their ancestors*, January 13, 2008, Los Angeles Times, accessed at: <http://articles.latimes.com/2008/jan/13/local/me-bones13>).

An article in the *Indian Times Today* describes the acrimonious nature of the hearing, and follow-up communications by the committee Chairman: "Sen. Dean Florez, D-Shafter, chairman of the Senate Committee on Governmental Organization, said in a Feb. 27 letter addressed to UC – Berkeley Chancellor Robert Birgeneau that he had been inclined to give university officials 'the benefit of the doubt,' but he was 'appalled' after testimonies at a hearing at the state Capitol Feb. 26. University officials 'systematically' excluded Natives from 'having any involvement' in a decision to eliminate a unit at the Phoebe A. Hearst Museum of Anthropology – which houses the second-largest Native collection in the nation – that had helped tribes reclaim ancestral items under the Native American Graves Protection and Repatriation Act.

"Sen. Darrell Steinberg, D-Sacramento, said at the hearing the university was discriminating against Natives by keeping more than 12,000 human remains in drawers and cabinets under the swimming pool of the Hearst Gymnasium. Steinberg, who is not a committee member but participated in the hearing, said the university is not respecting repatriation procedures under the federal NAGPRA and a similar state law he wrote in 2001.

"The Hearst Museum houses more than 200,000 Native ancestral items. It is required under NAGPRA to identify the Native items in its collection and return them to tribes. There are more than 620,000 Natives in California, according to the 2000 U.S. Census, and more than 107 California tribes. But the university has claimed for decades that a majority of its collection cannot be linked to modern tribes. It has so far returned only the bones of about 260 individuals since submitting an initial, incomplete inventory of its Native collections in 1996." (*Senators accuse UC – Berkeley of discrimination and secrecy over ancestral remains*, February 29, 2008, Indian Country Today, accessed at: <https://indiancountrymedianetwork.com/news/senators-accuse-uc-berkeley-of-discrimination-and-secrecy-over-ancestral-remains/>).

Recommendations discussed within the hearing for improvement to the University system wide process for repatriation of Native American artifacts and remains included:

- Campus level collaboration with local and regional tribes.
- Greater transparency and information sharing from campuses to the U.C. system wide committee that oversees the inventory and repatriation process.
- A related suggestion is for each campus to establish a campus NAGPRA Compliance committee for review such as at UCLA, which has representatives from the Fowler Museum, an archeologist from the faculty, faculty from American Indian studies, students, and representative from the Indian community. It's appointed under the authority of the vice chancellor for research and it is assisted by a cultural anthropologist.

- Development of system wide method to share and implement best practices for repatriation process as it is being conducted at different campuses.
- Implementation of the Native American Commission created by AB 978.

Following the hearing, PAHMA finalized its NAGPRA inventory of human remains and associated funerary objects (“Inventories”) on August 13, 2008, which affiliated over 2000 human remains and associated funerary objects with the Santa Ynez Band of Chumash Indians. (<https://www.gpo.gov/fdsys/pkg/FR-2008-08-13/pdf/E8-18680.pdf>).

- 4) *University of California's unique constitutional status.* The California Constitution establishes the University of California (UC), a public trust to be administered by the Regents of the UC and grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to insure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services. (Article IX, Section (9)(a) of the California Constitution)
- 5) *Prior related legislation.* AB 978 (Steinberg), Chapter 818, Statutes of 2001, AB 978 enacted the California Native American Graves Protection and Repatriation Act of 2001 to established a process for repatriating Native American human remains and cultural items that are currently in the possession of any state or local agency or any museum that receives state funds. The bill established a ten-member appointed Repatriation Commission with authority to order repatriation, to mediate disputes, to subpoena, and to impose civil penalties. The bill required any agency or museum that has possession or control over collections of California Native American human remains and associated funerary object to complete, by January 1, 2003, an inventory of all items and include specified information in the inventory that will facilitate return of the objects.
- 6) *Double referral.* Should this bill pass out of this committee, it will be re-referred to the Assembly Committee on Higher Education.

REGISTERED SUPPORT / OPPOSITION:

Support

Cachil Dehe Band of Wintun Indians
Pechanga Band of Luiseño Indians

Opposition

None on file

Analysis Prepared by: Dana Mitchell / A.,E.,S.,T., & I.M. / (916) 319-3450