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108TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 108-98

VIETNAM VETERANS MEMORIAL EDUCATION CENTER ACT

JULY 11, 2003.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 1076]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1076) to authorize construction of an education center at or near the Vietnam Veterans Memorial, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—VIETNAM VETERANS MEMORIAL EDUCATION CENTER

SECTION 101. EDUCATION CENTER.

Public Law 96-297, as amended, (16 U.S.C. 431 note) is further amended by adding at the end thereof the following:

“SEC. 6. EDUCATION CENTER.

“(a) **AUTHORIZATION.**—(1) The Vietnam Veterans Memorial Fund, Inc., is authorized to construct an education center at or near the Vietnam Veterans Memorial site, subject to the provisions of this section, in order to better inform and educate the public about the Vietnam Veterans Memorial.

“(2) The education center may be located above ground or underground, as determined through the approval process set forth under the Commemorative Works Act and this Act.

“(3) As used in this section, the term “education center” or “center” means a building or other structure approved in accordance with chapter 89 of title 40, United States Code (commonly referred to as the “Commemorative Works Act”) and this section.

“(b) **APPLICATION OF COMMEMORATIVE WORKS ACT.**—(1) The Commemorative Works Act (chapter 89 of title 40, United States Code) shall apply to the education center, and the center shall be considered a commemorative work for the purposes of that Act, except that—

“(A) final approval of the education center shall not be withheld; and

“(B) the provisions of section 8908(b) of title 40, United States Code, requiring approval by law for the location of a commemorative work within Area I, shall not apply.

“(2) Notwithstanding section 8908(c) of title 40, United States Code (as added by the Commemorative Works Clarification and Revision Act of 2003), the designation of the Reserve shall not preclude the approval of a site for the education center within such area.

“(3) Section 8905(b)(5) of title 40, United States Code (as added by the Commemorative Works Clarification and Revision Act of 2003), prohibiting the authorization of a commemorative work primarily designed as a museum on lands under the jurisdiction of the Secretary of the Interior within Area I or East Potomac Park, shall not be construed to deny approval of the education center.

“(4) The size of the education center shall be limited to the minimum necessary—

(A) to provide for appropriate educational and interpretive functions; and

(B) to prevent interference or encroachment on the Vietnam Veterans Memorial and to protect open space and visual sightlines on the Mall.

“(5) The education center shall be constructed and landscaped in a manner harmonious with the site of the Vietnam Veterans Memorial, consistent with the special nature and sanctity of the Mall.

“(c) OPERATION AND MAINTENANCE.—(1) The education center shall be operated and maintained by the Secretary of the Interior.

“(2) This subsection does not waive section 8906(b) of title 40, United States Code (as amended by the Commemorative Works Clarification and Revision Act of 2003), requiring the donation of funds to offset the costs of perpetual maintenance and preservation of the commemorative work.

“(d) FUNDING.—All funds required for the planning, design and construction of the education center shall be provided by the Vietnam Veterans Memorial Fund, Inc. No Federal funds shall be used for the planning, design, or construction of the center.”.

TITLE II—COMMEMORATIVE WORKS ACT AMENDMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the “Commemorative Works Clarification and Revision Act of 2003”.

SEC. 202. ESTABLISHMENT OF RESERVE.

Section 8908 of title 40, United States Code, is amended by adding at the end the following:

“(c) RESERVE.—After the date of enactment of the Commemorative Works Clarification and Revision Act of 2003, no commemorative work shall be located within the Reserve.”.

SEC. 203. CLARIFYING AND CONFORMING AMENDMENTS.

(a) PURPOSES.—Section 8901(2) of title 40, United States Code, is amended by striking “Columbia;” and inserting “Columbia and its environs. and to encourage the location of commemorative works within the urban fabric of the District of Columbia;”.

(b) DEFINITIONS.—Section 8902(a) of title 40, United States Code, is amended to read as follows:

“(a) DEFINITIONS.—In this chapter, the following definitions apply—

“(1) the term “commemorative work” means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history, except that the term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes;

“(2) the term “sponsor” means a public agency, and an individual, group or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and which is authorized by Congress to establish a commemorative work in the District of Columbia and its environs;

“(3) the term “Reserve” means the great cross-axis of the Mall, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map referenced in paragraph (4); and

“(4) the term “the District of Columbia and its environs” means those lands and properties administered by the National Park Service and the General

Services Administration located in the Reserve, Area I, and Area II as depicted on the map entitled “Commemorative Areas Washington, DC and Environs”, numbered 869/86501 B, and dated June 24, 2003”.

(c) AUTHORIZATION.—Section 8903 of title 40, United States Code, is amended as follows:

(1) In subsection (b)—

(A) by striking “work commemorating a lesser conflict” and inserting “work solely commemorating a limited military engagement”; and

(B) by striking “the event.” and inserting “such war or conflict.”.

(2) In subsection (d)—

(A) by striking “CONSULTATION WITH NATIONAL CAPITAL MEMORIAL COMMISSION.—” and inserting “CONSULTATION WITH NATIONAL CAPITAL MEMORIAL ADVISORY COMMISSION.—”;

(B) by striking “House Administration” and inserting “Resources”; and

(C) by inserting “Advisory” before “Commission”.

(3) Subsection (e) is amended to read as follows:

“(e) EXPIRATION OF LEGISLATIVE AUTHORITY.—Any legislative authority for a commemorative work shall expire at the end of the seven-year period beginning on the date of the enactment of such authority, or at the end of the seven-year period beginning on the date of the enactment of legislative authority to locate the commemorative work within Area I, if such additional authority has been granted, unless:

“(1) the Secretary of the Interior or the Administrator of General Services (as appropriate) has issued a construction permit for the commemorative work during that period; or

“(2) the Secretary or the Administrator (as appropriate), in consultation with the National Capital Memorial Advisory Commission, has made a determination that—

“(A) final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts; and

“(B) 75 percent of the amount estimated to be required to complete the memorial has been raised.

“If these two conditions have been met, the Secretary or the Administrator (as appropriate) may extend the seven-year legislative authority for a period not to exceed three years from the date of expiration. Upon expiration of the legislative authority, any previous site and design approvals shall also expire.”

(d) NATIONAL CAPITAL MEMORIAL ADVISORY COMMISSION.—Section 8904 of title 40, United States Code, is amended as follows:

(1) By striking “§ 8904. National Capital Memorial Commission” and inserting “§ 8904. National Capital Memorial Advisory Commission”.

(2) In subsection (a) by striking “There is a National Capital Memorial Commission. The membership of the Commission consists of—” and inserting “The National Capital Memorial Advisory Commission is hereby established and shall include the following members (or their designees):”.

(3) In subsection (c)—

(A) by inserting “Advisory” before “Commission”; and

(B) by striking “Services” and inserting “Services (as appropriate)”.

(4) In subsection (d) by inserting “Advisory” before “Commission”.

(e) SITE AND DESIGN APPROVAL.—Section 8905 of title 40, United States Code, is amended as follows:

(1) In subsection (a)—

(A) by striking “person” and inserting “sponsor” each place it appears;

(B) by inserting “Advisory” before “Commission” in paragraph (1); and

(C) by striking “designs” and inserting “design concepts”.

(2) In subsection (b)—

(A) by striking “and Administrator” and inserting “or Administrator (as appropriate)”; and

(B) in paragraph (2)(B), by striking “open space and existing public use.” and inserting “open space, existing public use, and cultural and natural resources.”.

(f) CRITERIA FOR ISSUANCE OF CONSTRUCTION PERMIT.—Section 8906 of title 40, United States Code, is amended as follows:

(1) In subsection (a)(3) and (a)(4) by striking “person” and inserting “sponsor;” and

(2) By amending subsection (b) to read as follows:

“(b) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—

“(1) In addition to the criteria described above in subsection (a), no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and pres-

ervation of the commemorative work. All such amounts shall be available for those purposes pursuant to the provisions of this subsection. The provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 percent of the funding for such work is provided by private sources.

“(2) Notwithstanding any other provision of law, money on deposit in the Treasury on the date of enactment of this subsection provided by a sponsor for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

“(3) Money provided by a sponsor pursuant to the provisions of this subsection after the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 shall be credited to a separate account with the National Park Foundation.

“(4) Upon request, the Secretary of the Treasury or the National Park Foundation shall make all or a portion of such moneys available to the Secretary or the Administrator (as appropriate) for the maintenance of a commemorative work. Under no circumstances may the Secretary or Administrator request funds from a separate account exceeding the total money in the account established under paragraph (2) or (3). The Secretary and the Administrator shall maintain an inventory of funds available for such purposes. Funds provided under this paragraph shall be available without further appropriation and shall remain available until expended.”.

(g) AREAS I AND II.—Section 8908 of title 40, United States Code, is amended—

(1) by striking “Secretary of the Interior and Administrator of General Services” and inserting “Secretary of the Interior or the Administrator of General Services (as appropriate)”; and

(2) by striking “numbered 869/86581, and dated May 1, 1986.” and inserting “entitled ‘Commemorative Areas Washington, DC and Environs’, numbered 869/86501 B, and dated June 24, 2003.

SEC. 204. SITE AND DESIGN CRITERIA.

Section 8905 of title 40, United States Code, is further amended by adding the following new paragraphs to subsection (b):

“(5) MUSEUMS.—No commemorative work primarily designed as a museum may be located on lands under the jurisdiction of the Secretary in Area I or in East Potomac Park as depicted on the map referenced in section 8902(4);

“(6) SITE SPECIFIC GUIDELINES.—The National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specific to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this Act; and

“(7) DONOR CONTRIBUTIONS.—Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site.”.

SEC. 205. NO EFFECT ON PREVIOUSLY APPROVED SITES.

Nothing in this title shall apply to a commemorative work for which a site was approved in accordance with the Commemorative Works Act to the date of enactment of this title.

SEC. 206. NATIONAL PARK SERVICE REPORTS.

Within six months after the date of enactment of this title, the Secretary of the Interior, in consultation with the National Capital Planning Commission and the Commission of Fine Arts, shall submit to the Committee on Energy and Natural Resources of the United States Senate, and to the Committee on Resources of the United States House of Representatives reports setting forth plans for the following:

(1) To relocate the National Park Service’s stable and maintenance facilities that are within the Reserve as expeditiously as possible.

(2) To relocate, redesign or otherwise alter the concession facilities that are within the Reserve to the extent necessary to make them compatible with the Reserve’s character.

(3) To limit the sale or distribution of permitted merchandise to those areas where such activities are less intrusive upon the Reserve and to relocate and existing sale or distribution structures that would otherwise be inconsistent with the plan.

(4) To make other appropriate changes, if any, to protect the character of the Reserve.

PURPOSE OF THE MEASURE

The purposes of S. 1076, as ordered reported, are to authorize the Vietnam Veterans Memorial Fund, Inc., to construct an education center at or near the Vietnam Veterans Memorial, and to amend chapter 89 of title 40, United States Code (commonly referred to as the “Commemorative Works Act”) to establish the Reserve on the National Mall, where the siting of new commemorative works would be prohibited.

BACKGROUND AND NEED

The Vietnam Veterans Memorial comprises approximately 3 acres in the northwest area of the Mall. Several new features have been added to the memorial since its dedication in 1982. The Three Servicemen Statue was added in 1984 and the Vietnam Women’s Memorial was added in 1993. In addition, Congress enacted Public Law 106–214 in 2000, which authorized the placement of a plaque on the memorial grounds to honor Vietnam veterans who died after the war, but as direct result of it.

S. 1076 would add a new feature to the site by authorizing the Vietnam Veterans Memorial Fund, Inc. to construct an education center at the memorial. The education center is intended to give visitors to the memorial an opportunity to learn more about the memorial and the Vietnam War.

LEGISLATIVE HISTORY

S. 1076 was introduced by Senators Hagel, McCain, and Kerry on May 19, 2003. The Subcommittee on National Parks held a hearing on S. 1076 on June 3, 2003. Companion legislation, H.R. 1442, was introduced by Representative Pombo on March 26, 2003. In the 107th Congress, a similar bill, S. 281, was introduced by Senator Hagel, and others on February 7, 2001. The Subcommittee on National Parks held a hearing on the bill on July 17, 2001. The Committee favorably reported S. 281 with an amendment in the nature of a substitute on June 25, 2002.

At the business meeting on June 25, 2003, the Committee on Energy and Natural Resources ordered S. 1076, as amended, favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on June 25, 2003, by unanimous vote of a quorum present, recommends that the Senate pass S. 1076, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 1076, the Committee adopted an amendment in the nature of a substitute, consisting of two titles.

Title I, pertaining to the education center, is similar to S. 1076 as introduced, and retains all of the language reported by the Committee for S. 281 in the 107th Congress, with the exception of language authorizing the use of commemorative coin sale revenues for the education center.

As reported, S. 1076 also includes a new title II, which amends the Commemorative Works Act in a number of respects. Most importantly, section 202 of the substitute would establish a reserve area along the National Mall where new commemorative works would be prohibited, with the exception of the Vietnam Veterans Memorial Education Center authorized by the bill. Title II is almost identical to an amendment adopted by the Committee during the 107th Congress to S. 281.

The substitute's designation of the Reserve responds to the increasing congestion of the National Mall. An average of one new memorial a year has been built within the District of Columbia over the last century, and many of these have been authorized for locations on the Mall—including no fewer than seven new memorials on the Mall in the years from 1980–2000 alone. These trends foreshadow a proliferation of commemorative works that threaten the historic open space of the Nation's greatest symbolic landscape.

Representatives of the National Capital Memorial Commission of Fine Arts, and the National Capital Planning Commission organized as a Joint Task Force on Memorials in order to devise strategies to guide new memorial development away from the Mall and into all quadrants of the city. Following public comment, in January 2000 all three commissions adopted a policy establishing a Reserve to preserve the monumental core and redirect memorials throughout the city.

The Reserve, an area where no new memorials will be constructed other than the Vietnam Veterans Memorial Education Center and the previously authorized World War II and Martin Luther King Jr. Memorials, generally encompasses the central cross axis of the Mall. One protected axis extends along the length of the Mall between the U.S. Capitol and the Lincoln Memorial, and the other extends across the Mall between the Jefferson Memorial and the White House. The amendment broadens the task force's proposed reserve to include all of the area between Constitution and Independence Avenues from 14th Street west to the Lincoln Memorial, and expands the boundary of the Reserve to include lands south of Independence Avenue along Ohio Drive to the Inlet Bridge area of the Tidal Basin.

The substitute amendment is explained in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Title I authorizes the construction of an education center at or near the Vietnam Veterans Memorial.

Section 101 further amends Public Law 96–297, as amended, (16 U.S.C. 431 note) by adding at the end a new section 6 as follows:

Subsection (a) authorizes the Vietnam Veterans Memorial Fund, Inc., to construct an education center at or near the Vietnam Veterans Memorial site. The education center may be located above ground or underground, as determined through the approval process set forth under the Commemorative Works Act and this Act.

Subsection (b)(1) provides the Commemorative Works Act (40 U.S.C. 8901 et seq.) shall apply to the education center, except that final approval of the education center shall not be withheld and the provisions of section 8909(b) of that Act requiring approval by law

for the location of a commemorative work within Area I shall not apply.

Paragraph (2) states that notwithstanding section 8908(c) of the Commemorative Works Act (as added by this Act), the designation of the Reserve shall not preclude the approval of a site for the education center within the Reserve.

Paragraph (3) provides that section 8905(b)(5) of the Commemorative Works Act (as added by this Act), prohibiting the authorization of a commemorative work primarily designed as a museum on lands under the jurisdiction of the Secretary of the Interior within Area I or East Potomac Park, shall not be construed to deny approval of the education center.

Paragraph (4) provides that the size of the education center shall be limited to the minimum necessary to provide for appropriate educational and interpretive functions, to prevent interference or encroachment on the Vietnam Veterans Memorial, and to protect open space and visual sightlines on the Mall.

Paragraph (5) states that the education center shall be constructed and landscaped in a manner harmonious with the site of the Vietnam Veterans Memorial, consistent with the special nature and sanctity of the mall.

Subsection (c) provides that the education center shall be operated and maintained by the Secretary of the Interior, consistent with section 8906(b) of the Commemorative Works Act (as amended by this Act) (requiring the donation of funds to offset the costs of perpetual maintenance and preservation of the commemorative work).

Subsection (d) requires that all funds required for the planning, design and construction of the education center shall be provided by the Vietnam Veterans Memorial Fund, Inc., and no Federal funds may be used for these purposes.

Title II amends the Commemorative Works Act to establish a reserve area along the National Mall where new commemorative works would be prohibited, and to make other amendments.

Section 201 designated title II of the bill as the “Commemorative Works Clarification and Revision Act of 2003”.

Section 202 amends the section 8908 of title 40, United States Code, to establish a reserve area along the National Mall where new commemorative works would be prohibited after the date of enactment of this title.

Section 203 includes clarifying and conforming amendments to the Commemorative Works Act.

Subsection (a) amends section 8901(2) of title 40, United States Code, to encourage the location of commemorative works within the urban fabric of the District of Columbia.

Subsection (b) amends section 8902(a) of title 40, United States Code, to revise the definition of key terms used in the Commemorative Works Act (the Act).

Subsection (c) makes several amendments to sections 8903(b) and (d) of title 40, United States Code. Subsection (e) provides that, with certain exceptions, any legislative authority for a commemorative work shall expire at the end of the 7-year period beginning on the date of enactment of such authority, or at the end of the 7-year period beginning on the date of enactment of legislative authority to locate the commemorative work within Area I. In addition to the

existing exception where the Secretary of the Interior or Administrator of the General Services Administration (as appropriate) has issued a construction permit for the commemorative work during that period, the amendment would also provide an exception where the Secretary or Administrator has made a determination that final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts, and 75 percent of the amount estimated to be required to complete the memorial has been raised. If the two conditions for the new exception are met, the Secretary or Administrator may extend the commemorative work's 7-year legislative authority for a period not to exceed 3 years.

Subsection (d) amends section 8904 of title 40, United States Code, to redesignate the National Capital Memorial Commission as the National Capital Memorial Advisory Commission, and to make other technical and conforming changes.

Subsection (e) makes technical amendments to section 8905 of title 40, United States Code.

Subsection (f) amends section 8906 of title 40, United States Code, to direct that money provided by a sponsor pursuant to this subsection after the date of enactment of S. 1076 shall be credited to a separate account with the National Park Foundation. This subsection also makes clarifying and technical changes to other parts of section 8906 of the Act.

Subsection (g) makes technical amendments to section 8908 of title 40, United States Code. The amendment also references a new map, depicting Area I and II, and the Reserve.

Section 204 further amends section 8905 of title 40, United States Code, by adding paragraphs (5) through (7) in subsection (b).

Paragraph (5) prohibits the location of any commemorative work primarily designed as a museum on lands under the jurisdiction of the Secretary of the Interior in Area I or in East Potomac Park as depicted on the map referenced in section 8902(4).

Paragraph (6) provides that the National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specific to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this Act.

Paragraph (6) provides that donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site.

Section 205 provides that nothing in this title shall apply to a commemorative work for which a site was approved in accordance with the Commemorative Works Act prior to the date of enactment of this title.

Section 206 provides that within 6 months after the date of enactment of this title, the Secretary of the Interior, in consultation with the National Capital Planning Commission and the Commission of Fine Arts, shall submit to the Congressional committees of jurisdiction reports setting forth plans for the following:

- (1) To relocate the National Park Service's stable and maintenance facilities that are within the Reserve as expeditiously as possible;

(2) To relocate, redesign, or otherwise after the concession facilities that are within the Reserve to the extent necessary to make them compatible with the Reserve's character;

(3) To limit the sale or distribution of permitted merchandise to those areas where such activities are less intrusive upon the Reserve, and to relocate any existing sale or distribution structures that would otherwise be inconsistent with the plan; and

(4) To make other appropriate changes, if any, to protect the character of the Reserve.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 30, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1076, a bill to authorize construction of an education center at or near the Vietnam Veterans Memorial, and for the purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBS staff contact is Deborah Regis.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 1076—A bill to authorize construction of an education center at or near the Vietnam Veterans Memorial

Title I of S. 1076 would authorize the establishment of an education center near the Vietnam Veterans Memorial. Title II would amend the Commemorative Works Act, which governs the requirements for building memorials on federal land. Assuming appropriation of the necessary amounts, CBO estimates that implementing title I would cost about \$1 million annually. The changes made by title II would have no significant impact on the federal budget. Enacting S. 1076 would not affect direct spending or revenues.

S. 1076 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The legislation would authorize a private sponsor, the Vietnam Veterans Memorial Fund, Inc., to build an education center near the Vietnam Veterans Memorial in the District of Columbia. While no federal funds would be used to build the center, the National Park Service would operate it at federal expense. Under section 8 of the Commemorative Works Act (as amended by title II of the bill), the sponsor would donate 10 percent of the center's construction costs to the National Park Foundation (NPF), a private non-profit organization. Such funds would be available to the Vietnam Veterans Memorial Fund for maintenance of the center.

Based on the costs of operating similar interpretive facilities in the National Park System, CBO estimates that the government would spend about \$1 million annually to operate the new education center once it has been constructed. (This amount excludes maintenance costs, which would be covered by the NPF maintenance account.)

The CBO staff contact for this estimate is Deborah Reis. The estimate was reviewed by Paul R. Cullinan, Chief for Human Resources Cost Estimates Unit of the Budget Analysis Division.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1076. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1076, as ordered reported.

EXECUTIVE COMMUNICATIONS

On June 25, 2003, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 1076. These reports had not been received at the time the report on S. 1076 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF P. DANIEL SMITH, SPECIAL ASSISTANT TO THE DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 1076, which would authorize the Vietnam Veterans Memorial Fund to construct an education center to provide information to the public on the Vietnam Veterans Memorial.

We are deeply appreciative of the sacrifices made by the men and women who bravely served our country in Vietnam. We share the interest of the congressional sponsors of S. 1076 in having the American public, particularly younger generations, better understand and appreciate the extraordinary burden borne by those who fought for our country during a most difficult, divisive, and painful time in our nation's history.

The veterans who served our nation in Vietnam are honored here in the Nation's Capital in what many view as one of the most emotionally moving memorials ever created. We are privileged to be the steward of this memorial. In that role, we are well aware of the deeply emotional ex-

perience visitors have when they see the Wall. We believe that it is vitally important that nothing detract from the powerful emotion that the memorial evokes, as it is that emotion that helps keep alive the public's appreciation of those who served in Vietnam. For this reason, as well as others, we give careful and cautious consideration of any proposal to add a new structure to the memorial.

The Department wants to ensure that a structure on or adjacent to the Vietnam Veterans Memorial, as envisioned by S. 1076, will not detract from visitors' experience at the Vietnam Veterans Memorial and the nearby Lincoln Memorial. We believe there may be other more suitable alternatives to the proposed visitor center that should be explored. We would like to work with the committee to identify alternative ways of fulfilling the goal of this legislation.

S. 1076 would authorize the Vietnam Veterans Memorial Fund to construct an education center to provide information to the public on the memorial. The bill would authorize the center to be located either above ground or underground, on or adjacent to the memorial. S. 1076 requires the visitor center to be located in a way that prevents interference with or encroachment on the memorial and protects open space and visual sightliness on the National Mall, and constructed and landscaped in a manner that is consistent with the Memorial and the National Mall. We appreciate that S. 1076 seeks to be sensitive to siting and design concerns that have been raised since similar legislation was first introduced three years ago.

As you know, several elements have already been added to the original black granite wall that were not part of the original design. They include the flagpole and the Three Servicemen statue, the Memorial to Women who Served in Vietnam that was constructed in 1993, and most recently, the In Memory Plaque, to those veterans who died after the war as a direct result of their military service in Vietnam, which was authorized in 2000. With each addition, the Department has been concerned about the risk of diminishing the original work. The proposed addition of an education center at the site poses a significant new challenge, since it would not be just another memorial element but, instead, a relatively large structure adjacent to the memorial.

A similar view is shared by the two commissions that, by law, review proposals for structures in the monumental core—the National Capital Planning Commission and the Commission of Fine Arts—as well as the National Capital Memorial Commission, which advises the Secretary of the Interior and Congress on such proposals. Since the time legislation authorizing construction of a visitor or education center was first introduced, three design concepts have been publicized. One was a 1,200-square-foot above-ground facility that would be sited where the existing 168-square-foot information kiosk currently stands. All three commissions were opposed to that proposal, and the De-

partment testified in opposition to it in testimony before the Senate Subcommittee on National Parks in July, 2001.

The second publicized design concept was an 8,000-square-foot underground facility, which would include a substantial above-ground entrance. In a February, 2002 letter to the President of the Vietnam Veterans Memorial Fund, the Director of the National Park Service indicated support for the concept of an underground facility, so long as it was appropriately sized and sited, acceptable visually, and had a minimum of distracting qualities to the visitor experience. The Director committed the National Park Service to consult with the Fund, as well as the National Capital Memorial Commission, the Commission of Fine Arts, and the National Capital Planning Commission on the options available to enhance the interpretation of the memorial.

At the time that the letter was written, we believed that it might be possible to design an underground facility for the memorial that was, in fact, appropriately sized and sited for the memorial. Since that time, however, the National Park Service has consulted with representatives of the three commissions. They have expressed serious concerns that, because of the practical need for a large above-ground entrance, it would be virtually impossible to design an underground facility in close proximity to the memorial that is not intrusive on the visitor experience. In a public meeting in September, 2002, with the National Park Service representative abstaining, the National Capital Memorial Commission—which includes representation from the other two commissions—voted unanimously to oppose construction of an underground visitor center at the Vietnam Veterans Memorial.

The third design concept was discussed at the hearing on H.R. 1442, similar to S. 1076, held two weeks ago by the House Resources Subcommittee on National Parks, Recreation and Public Lands. At that hearing, the witness for the Vietnam Veterans Memorial Fund discussed plans for a 10,000-square-foot underground facility, with the entrance located at the site where the information kiosk stands.

In addition, members of the three commissions are concerned about the precedent a facility of this type would set for other memorials. Structures similar to that proposed by H.R. 1442 have been disapproved or precluded at the Franklin Delano Roosevelt, World War II, and Martin Luther King, Jr. Memorials because they would detract from the visitor experience. These types of structures run counter to the Memorials and Museums Master Plan, which was endorsed by all three commissions after extensive public review. If an education center is allowed to be constructed at the Vietnam Veterans Memorial, it will make it much more difficult to deny proposals for such facilities at other similar memorials, despite both previous denials of such proposals and the guidelines opposing these structures contained in the approved Master Plan.

The Department is fully committed to educating the public about the Vietnam Veterans Memorial and the men and women who served our nation in Vietnam. For more than ten years, the Smithsonian had displayed an exhibit of the offerings left at the Vietnam Veterans Memorial and collected by National Park Service rangers. Other exhibits of offerings collected by the National Park Service have traveled to schools, universities, museums and veterans centers all over the world. In addition, the National Park Service has published a book and CD-ROM on the history of the memorial and runs a website designed to educate children about museum collections, including those associated with the Vietnam Veterans Memorial. The National Park Service has been involved in a number of news programs and television specials on the Vietnam Veterans Memorial and the history of our nation's involvement in Vietnam.

In coordination with the committee, we would like to investigate various alternatives for fulfilling the goal of this legislation. Two ideas we would like to explore are (1) enhancing the existing visitor kiosk and interpretation at the memorial, and (2) studying sites near the Mall where a visitor or education center for the Vietnam Veterans Memorial could be located. We are open to other ideas, as well, that the committee, or the Vietnam Veterans Memorial Fund, or others may suggest.

On the first idea we mentioned, we think that it might be possible to modify the information kiosk at the Vietnam Veterans Memorial to include computerized touchscreens that visitors could access to find information about the memorial, and individuals who served in Vietnam. The use of computer technology and touchscreens would enable a wide variety of periodically revolving information to be provided to visitors. This type of technology is already in use at the Korean War Veterans Memorial, and is planned for the World War II Memorial. Along with enhancing the visitor kiosk, the National Park Service would want to work with the Vietnam Veterans Memorial Fund to develop more extensive visitor outreach and interpretive programs that do not necessitate a new structure.

On the other idea, we would undertake a study to identify sites near the Mall that are feasible for a visitor or education center specifically for the Vietnam Veterans Memorial. We would expect to work closely with the Vietnam Veterans Memorial Fund, as well as the committee in conducting this study.

The goal of S. 1076 of educating the public about Vietnam is an admirable one, and one that the Department has fully supported and will continue to support. We believe that the two possible courses we have suggested could lead to excellent opportunities to educate visitors about the men and women who served our nation in Vietnam, and would do so while preserving the sanctity of the memorial so that it appropriately honors them. And, as I mentioned, we are open to other ideas for pursuing the

same goal. We look forward to working closely with the committee to fulfill the spirit of this legislation.

Mr. Chairman, that concludes my statement. I would be pleased to answer any questions that you or other members of the committee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1076, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is required is shown in roman):

Public Law 96-297

JOINT RESOLUTION To authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.

* * * * *

SEC. 6. EDUCATION CENTER.

(A) *AUTHORIZATION.*—(1) *The Vietnam Veterans Memorial Fund, Inc., is authorized to construct an education center at or near the Vietnam Veterans Memorial site, subject to the provisions of this section, in order to better inform and educate the public about the Vietnam Veterans Memorial.*

(2) *The education center may be located above ground or underground, as determined through the approval process set forth under the Commemorative Works Act and this Act.*

(3) *As used in this section, the term “education center” or “center” means a building or other structure approved in accordance with chapter 89 of title 40, United States Code (commonly referred to as the “Commemorative Works Act”) and this section.*

(b) *APPLICATION OF COMMEMORATIVE WORKS ACT.*—(1) *The Commemorative Works Act (chapter 89 of title 40, United States Code) shall apply to the education center, and the center shall be considered a commemorative work for the purpose of that Act, except that—*

(A) *final approval of the education center shall not be withheld;*

(B) *the provisions of section 8908(b) of title 40, United States Code, requiring approval by law for the location of a commemorative work within Area I, shall not apply.*

(2) *Notwithstanding section 8908(c) of title 40, United States Code (as added by the Commemorative Works Clarification and Revision Act of 2003), the designation of the Reserve shall not preclude the approval of a site for the education center within such area.*

(3) *Section 8905(b)(5) of title 40, United States Code (as added by the Commemorative Works Clarification and Revision Act of 2003), prohibiting the authorization of a commemorative work primarily designed as a museum on lands under the jurisdiction of the Secretary of the Interior within Area I or East Potomac Park, shall not be construed to deny approval of the education center.*

(4) *The size of the education center shall be limited to the minimum necessary—*

(A) to provide for appropriate educational and interpretive functions; and

(B) to prevent interference or encroachment on the Vietnam Veterans Memorial and to protect open space and visual sightlines on the Mall.

(5) The education center shall be constructed and landscaped in a manner harmonious with the site of the Vietnam Veterans Memorial, consistent with the special nature and sanctity of the Mall.

(c) OPERATION AND MAINTENANCE.—(1) The education center shall be operated and maintained by the Secretary of the Interior.

(2) This subsection does not waive section 8906(b) of title 40, United States Code (as amended by the Commemorative Works Clarification and Revision Act of 2003), requiring the donation of funds to offset the costs of perpetual maintenance and preservation of the commemorative work.

(d) FUNDING.—All funds required for the planning, design and construction of the education center shall be provided by the Vietnam Veterans Memorial Fund, Inc. No Federal funds shall be used for the planning, design, or construction of the center.

Title 40, United States Code

CHAPTER 89—NATIONAL CAPITAL MEMORIALS AND COMMEMORATIVE WORKS

Sec.

8901. Purposes.

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8903. Congressional authorization of commemorative works.

8904. National Capital Memorial Commission.

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8906. Criteria for issuance of construction permit.

8907. Temporary site designation.

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§ 8901. Purposes

The purposes of this chapter are—

(1) to preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital;

(2) to ensure the continued public use and enjoyment of open space in the District of [Columbia;] *Columbia and its environs, and to encourage the location commemorative works within the urban fabric of the District of Columbia;*

* * * * *

§ 8902. Definitions and nonapplication

[(a) DEFINITIONS.—In this chapter, the following definitions apply:

[(1) COMMEMORATIVE WORK.—The term “commemorative work”—

[(A) means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual,

group, event or other significant element of American history; but

[(B) does not include an item described in subclause (A) that is located within the interior of a structure or a structure which is primarily used for other purposes.

[(2) PERSON.—The term “person” means—

[(A) a public agency; and

[(B) an individual, group or organization—

[(i) described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of the Code (26 U.S.C. 501(a)); and

[(ii) authorized by Congress to establish a commemorative work in the District of Columbia and its environs.

[(3) THE DISTRICT OF COLUMBIA AND ITS ENVIRONS.—The term “the District of Columbia and its environs” means land and property located in Areas I and II as depicted on the map numbered 869/86581, and dated May 1, 1986, that the National Park Service and the Administrator of General Services administer.]

(a) *DEFINITIONS.—In this chapter, the following definitions apply*

(1) the term “commemorative work” means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history, except that the term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes;

(2) the term “sponsor” means a public agency, and an individual, group or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and which is authorized by Congress to establish a commemorative work in the District of Columbia and its environs;

(3) the term “Reserve” means the great cross-axis of the Mall, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map referenced in paragraph (4);

(4) the term “the District of Columbia and its environs” means those lands and properties administered by the National Park Service and the General Services Administration located in the Reserve, Area I, and Area II as depicted on the map entitled “Commemorative Areas Washington, DC and Environs”, numbered 869/86501 B, and dated June 24, 2003.

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§ 8903. Congressional authorization of commemorative works

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(b) **MILITARY COMMEMORATIVE WORKS.**—A military commemorative work may be authorized only to commemorate a war or similar major military conflict or a branch of the armed forces. A com-

memorative **work commemorating a lesser conflict** *work solely commemorating a limited military engagement* or a unit of an armed force may not be authorized. Commemorative works to a war or similar major military conflict may not be authorized until at least 10 years after the officially designated end of **the event** *such war or conflict*.

* * * * *

(d) **CONSULTATION WITH NATIONAL CAPITAL MEMORIAL COMMISSION.—** *CONSULTATION WITH NATIONAL CAPITAL MEMORIAL ADVISORY COMMISSION.*—In considering legislation authorizing commemorative works in the District of Columbia and its environs, the Committee on **House Administration** *Resources* of the House of Representatives and the Committee on Energy and Natural Resources of the Senate shall solicit the views of the National Capital Memorial Advisory Commission.

[(e) EXPIRATION OF LEGISLATIVE AUTHORITY.—Legislative authority for a commemorative work expires at the end of the seven-year period beginning on the date the authority is enacted unless the Secretary of the Interior or Administrator of General Services, as appropriate, has issued a construction permit for the commemorative work during that period.]

(e) EXPIRATION OF LEGISLATIVE AUTHORITY.—Any legislative authority for a commemorative work shall expire at the end of the seven-year period beginning on the date of the enactment of such authority, or at the end of the seven-year period beginning on the date of the enactment of legislative authority to locate the commemorative work within Area I, if such additional authority has been granted, unless:

(1) the Secretary of the Interior or the Administrator of General Services (as appropriate) has issued a construction permit for the commemorative work during that period; or

(2) the Secretary or the Administrator (as appropriate), in consultation with the National Capital Memorial Advisory Commission, has made a determination that—

(A) final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts; and

(B) 75 percent of the amount estimated to be required to complete the memorial has been raised.

If these two conditions have been met, the Secretary or the Administrator (as appropriate) may extend the seven-year legislative authority for a period not to exceed three years from the date of expiration. Upon expiration of the legislative authority, any previous site and design approvals shall also expire.

[§ 8904. National Capital Memorial Commission] § 8904. National Capital Memorial Advisory Commission

(a) **ESTABLISHMENT AND COMPOSITION.—****[**There is a National Capital Memorial Commission. The membership of the Commission consists of—**]** *The National Capital Memorial Advisory Commission is hereby established and shall include the following members (or their designees):*

* * * * *

(c) **ADVISORY ROLE.**—The National Capital Memorial *Advisory* Commission shall advise the Secretary of the Interior and the Administrator of General **Services** *Services (as appropriate)* on policy and procedures for establishment of, and proposals to establish, commemorative works in the District of Columbia and its environs and on other matters concerning commemorative works in the Nation's Capital as the Commission considers appropriate.

(d) **MEETINGS.**—The National Capital Memorial *Advisory* Commission shall meet at least twice annually.

§ 8905. Site and design approval

(a) **CONSULTATION ON, AND SUBMISSION OF, PROPOSALS.**—A **person** *sponsor* authorized by law to establish a commemorative work in the District of Columbia and its environs may request a permit for construction of the commemorative work only after the following requirements are met:

(1) **CONSULTATION.**—The person must consult with the National Capital Memorial *Advisory* Commission regarding the selection of alternative sites and **designs** *design concepts* for the commemorative work.

(2) **SUBMITTAL.**—Following consultation in accordance with clause (1), the Secretary of the Interior or the Administrator of General Services, as appropriate, must submit, on behalf of the person, site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission for their approval.

(b) **DECISION CRITERIA.**—In considering site and design proposals, the Commission of Fine Arts, National Capital Planning Commission, Secretary, **and Administrator** *or Administrator (as appropriate)* shall be guided by, but not limited by, the following criteria:

(1) **SURROUNDINGS.**—To the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the work.

(2) **LOCATION.**—A commemorative work shall be located so that—

(A) it does not interfere with, or encroach on, an existing commemorative work; and

(B) to the maximum extent practicable, it protects **open space and existing public use.** *open space, existing public use, and cultural and natural resources.*

* * * * *

(5) **MUSEUMS.**—No commemorative work primarily designed as a museum may be located on lands under the jurisdiction of the Secretary in Area I or in East Potomac Park as depicted on the map referenced in section 8902(4);

(6) **SITE-SPECIFIC GUIDELINES.**—The National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specific to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this Act; and

(7) **DONOR CONTRIBUTIONS.**—Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site.

§ 8906. Criteria for issuance of construction permit

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(3) the **[person]** *sponsor* authorized to construct the commemorative work has submitted contract documents for construction of the commemorative work to the Secretary or Administrator; and

(4) the **[person]** *sponsor* authorized to construct the commemorative work has available sufficient amounts to complete construction of the project.

[(b) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—

[(1) AMOUNT.—In addition to the criteria described in subsection (a), a construction permit may not be issued unless the person authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. The amounts shall be credited to a separate account in the Treasury.

[(2) AVAILABILITY.—The Secretary of the Treasury shall make any part of the donated amount available to the Secretary of the Interior or Administrator for maintenance at the request of the Secretary of the Interior or Administrator. The Secretary of the Interior or Administrator shall not request more from the separate account than the total amount deposited by persons establishing commemorative works in areas the Secretary of the Interior or Administrator administers.

[(3) INVENTORY OF AVAILABLE AMOUNTS.—The Secretary of the Interior and Administrator shall maintain an inventory of amounts available under this subsection. The amounts are not subject to annual appropriations.

[(4) NONAPPLICABILITY.—This subsection does not apply when a department or agency of the Federal Government constructs the work and less than 50 percent of the funding for the work is provided by private sources.]

(b) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—

(1) In addition to the criteria described above in subsection (a), no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. All such amounts shall be available for those purposes pursuant to the provisions of this subsection. The provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 percent of the funding for such work is provided by private sources.

(2) Notwithstanding any other provision of law, money on deposit in the Treasury on the date of enactment of this subsection provided by a sponsor for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

(3) Money provided by a sponsor pursuant to the provisions of this subsection after the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 shall be

credited to a separate account with the National Park Foundation.

(4) Upon request, the Secretary of the Treasury or the National Park Foundation shall make all or a portion of such moneys available to the Secretary or the Administrator (as appropriate) for the maintenance of a commemorative work. Under no circumstances may the Secretary or Administrator request funds from a separate account exceeding the total money in the account established under paragraph (2) or (3). The Secretary and the Administrator shall maintain an inventory of funds available for such purposes. Funds provided under this paragraph shall be available without further appropriation and shall remain available until expended.

* * * * *

§ 8908. Areas I and II

(a) AVAILABILITY OF MAP.—The **【Secretary of the Interior and Administrator of General Services】** *Secretary of the Interior and Administrator of General Services (as appropriate)* shall make available, for public inspection at appropriate offices of the National Park Service and the General Services Administration, the map **【numbered 869/86581, and dated May 1, 1986.】** *numbered 869/86501B, and dated June 24, 2003.*

* * * * *

(c) RESERVE.—*After the date of enactment of the Commemorative Works Clarification and Revision Act of 2003, no commemorative work shall be located within the Reserve.*

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