

Calendar No. 134

105TH CONGRESS }
1st Session }

SENATE

{ REPORT
105-71

OKLAHOMA CITY NATIONAL MEMORIAL

SEPTEMBER 2, 1997.—Ordered to be printed

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

REPORT

[To accompany S. 871]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 871) to establish the Oklahoma City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 871 is to establish the Oklahoma City National Memorial as a unit of the National Park System and to establish the Oklahoma City Memorial Trust and to manage the Memorial.

BACKGROUND AND NEED

One hundred and sixty-eight Americans lost their lives and many more were injured on April 19, 1995, when a bomb was detonated at the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma. This tragedy constitutes the worst domestic terrorist incident in American history.

This legislation would create a memorial at the site of the Murray Federal Building in Oklahoma City on 5th Street, Between Robinson and Harvey Streets and would also include the sites of the Water Resources Building and Journal Record Building.

Concepts for the memorial were solicited through a design competition that included 624 design submissions from all 50 states and 23 foreign countries. The design that was selected was created by Hans-Ekkehard Butzer, Torrey Butzer and Sven Berg, a German-based design team. The design includes 168 chairs in the

Murrah Building footprint, a water element designed to reflect spirit of change, a survivor tree, envisioned to reflect hope and “gates of time” on each end of Fifth Street that focus the visitor’s attention on memorial inscriptions and the other elements of the memorial. Torrey Butzer of the German team states, “We watched Oklahomans and the world respond to this terrible tragedy from afar. This is our way of giving something to honor the victims, survivors and the heros. This design will tell the story of all of us changed forever.”

The memorial established pursuant to this Act would serve not only as a monument to those who died and were injured in the bombing on April 19th, but also as a symbol of the galvanization of assistance, courage and good will shown by local citizens and Americans across the country in their outpouring of aid following the incident.

The Oklahoma City National Memorial will be designated as a unit of the National Park System. It will be placed under the charge of a wholly-owned government corporation, to be known as the Oklahoma City National Trust (Trust). The Trust will be governed by a nine-member Board of Directors (Board) which will have the authority to appoint an executive director and other key staff. Interim staff are authorized for two years to assist in the development of the memorial. Permanent National Park service staff and the ability to retain staff from other Federal agencies are also provided for by this measure on a reimbursable basis.

S. 871 authorizes \$5 million in Federal funds for construction and maintenance, but stipulates that any Federal expenditures must be matched by non-Federal funds, dollar for dollar. It is expected that matching fund sources will include the Oklahoma State legislature and private donations.

LEGISLATIVE HISTORY

S. 871 was introduced June 10, 1997 by Senators Nickles and Inhofe and was referred to the Committee on Energy and Natural Resources. The Subcommittee on National Parks, Historic Preservation and Recreation held a hearing in Oklahoma City on July 3, 1997 and in Washington, D.C. on July 17, 1997.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on July 30, 1997, by a unanimous vote of a quorum present, recommends that the Senate pass S. 871 without amendment.

The rollcall vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Murkowski	
Mr. Domenici	
Mr. Nickles	
Mr. Craig	
Mr. Campbell ¹	
Mr. Thomas	
Mr. Kyl	

Mr. Grams
 Mr. Smith
 Mr. Gorton
 Mr. Burns ¹
 Mr. Bumpers
 Mr. Ford
 Mr. Bingaman ¹
 Mr. Akaka
 Mr. Dorgan
 Mr. Graham
 Mr. Wyden
 Mr. Johnson
 Ms. Landrieu ¹

¹Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill the “Oklahoma City National Memorial Act of 1997”.

Section 2 sets forth Congressional findings and purpose. The purpose of the bill is to establish the Oklahoma City National Memorial as a unit of the National Park System and to further establish how the memorial will be developed and managed.

Section 3 defines certain terms in the bill.

Section 4(a) establishes the Oklahoma City National Memorial (Memorial) and further establishes the Memorial as a unit of the National Park System.

Subsection (b) references the official boundary map for the memorial and authorizes the Oklahoma City National Memorial Trust (the Trust) to make boundary revisions when necessary.

Section 5(a) establishes a wholly owned government corporation to be known as the Oklahoma City National Memorial Trust.

Subsection (b)(1) sets forth the membership of the Board of Directors (Board) for the Trust. The 9-member Board shall consist of the Secretary of the Interior (Secretary) or his designee and 8 additional members appointed by the President, but selected from lists of nominees submitted by the Governor of Oklahoma, the Mayor of Oklahoma City and the Oklahoma delegations from the United States House of Representatives and Senate. This section also directs that the President is to appoint the Board members within 90 days after the date of enactment.

Paragraph (b)(2) sets the terms of Board members at 4 years and limits consecutive terms to 8 years. The section also staggers the first series of appointments, with two members serving for 2 years and two members serving a term of 3 years.

Paragraph (b)(3) directs that 5 members shall constitute a quorum.

Paragraph (b)(4) directs that the Board shall organize itself in a manner it deems most appropriate and that members shall not receive compensation, but may be reimbursed for actual and necessary travel and subsistence associated with Trust duties.

Paragraph (b)(5) establishes that Board members will not be considered Federal employees except for purposes of the Federal Tort Claims Act, the Ethics in Government Act and provisions of titles 11 and 18 of the United States Code.

Paragraph (b)(6) directs the Board to meet at least 3 times per year in Oklahoma City, with at least two of those meetings open to the public. The Paragraph also allows the Board to hold additional meetings and the authority to determine if those meetings are open or closed to the public by majority vote. The Paragraph also authorizes the Board the ability to establish procedures for providing public information and soliciting public comment regarding operations, maintenance and management of the Memorial as well as input on policy, planning and design issues.

Paragraph (b)(7) authorizes the Trust to appoint and fix compensation and duties of an executive director of the Memorial and other officers it deems necessary without regard to provisions of Title 5 of the United States Code. The Paragraph also authorizes the Secretary of the Interior (at the request of the Trust) to provide interim employees as necessary for appointments not to exceed 2 years; to provide uniformed personnel on a reimbursable basis to carry out day to day duties; and at the request of the Trust, the Director of any other Federal agency may provide personnel on a reimbursable basis to carry out day to day visitor services programs.

Paragraph (b)(8) states that the Trust shall have all powers necessary and proper to exercise the authorities vested in it.

Paragraph (b)(9) provides that the Trust and all properties administered by the Trust shall be exempt from all city, State and local taxes.

Paragraph (b)(10) states that the Trust shall be treated as a wholly owned government corporation, subject to 31 U.S.C. Government Corporations Act and that Trust financial statements shall be audited annually. The Paragraph also directs the Trust to submit a comprehensive report of operations, activities and accomplishments for the prior fiscal year to the Senate Committee on Energy and Natural Resources and the House Committee on Resources, as well as a report, in general terms, of goals for the current fiscal year.

Section 6(a) directs that the Trust shall administer the operation, maintenance, management and interpretation of the Memorial, including, but not limited to leasing, rehabilitation, repair and improvement of Memorial property in accordance with existing Federal law including: provisions of law generally applicable to the National Park Service, including the 1916 Organic Act (16 U.S.C. 1, 2-4) and the Historic Preservation Act of 1935; the general objectives set forth in the "Memorial Mission Statement", adopted March 26, 1996 and the Oklahoma Memorial Foundation Intergovernmental Letter of Understanding, dated, October 28, 1996.

Subsection 6(b)(1) authorizes the Trust to participate in the development of programs and activities at the Memorial and to negotiate and enter into agreements, leases, and contracts with persons, firms, organizations including Federal, State and local government entities, as necessary to carry out its authorized activities and that such agreements may be entered into without regard to section 321, 40 U.S.C. 303(b).

Paragraph (b)(2) directs the Trust to establish procedures for lease agreements for the use and occupancy of Memorial facilities,

including a requirement that in entering into such agreements, the Trust shall obtain reasonable competition.

Paragraph (b)(3) prohibits the Trust from disposing of or reconveying title to any real property transferred to the Trust under this Act.

Paragraph (b)(4) directs that Federal laws and regulations governing procurement shall not apply to the Trust with the exception of those related to Federal contracts governing working conditions and any applicable civil rights provisions which are otherwise applicable.

Paragraph (b)(5) directs the Trust, in consultation with the Administrator of Federal Procurement Policy to establish and promulgate procedures enabling the Trust's procurement of goods and services, including, but not limited to the award of contracts on the basis of price, reasonable buying practices, competition and qualifications.

Subsection 6(c) directs that the Trust shall, within one year of passage of the Act, develop in consultation with the Secretary, a comprehensive program for management of those lands, operations and facilities associated with the Memorial.

Subsection 6(d) authorizes the Trust to solicit and accept donations for the purposes of carrying out its duties.

Subsection 6(e) authorizes that all proceeds received by the Trust may be retained and used by the Trust without further appropriation for uses in the administration, operation, preservation, restoration, maintenance, repair and improvements at the Memorial and that the Secretary of the Treasury at the request of the Trust, shall invest excess monies in public debt securities.

Subsection 6(f) establishes that the Trust may sue and be sued to the same extent as the Federal government and that litigation shall be conducted by the Attorney General, with the provision that the Trust may retain private attorneys for advice and council and that the District Court of the Western District of Oklahoma shall have exclusive jurisdiction over suits filed against the Trust.

Subsection 6(g) authorizes the Trust to adopt, amend, repeal and enforce bylaws, rules and regulations governing the way it conducts its business and the way by which its powers may be exercised. The Section also authorizes the Trust, in consultation with the Secretary to adopt and enforce those National Park Service regulations necessary and appropriate to carry out its duties and requires that the Trust shall give notice of its adoption of any such rules or regulations by publication in the Federal Register.

Subsection 6(h) directs the Trust to require any contractor or leaseholders to procure insurance, as is reasonable and customary, against any loss connected with properties under lease or contract or from related activities.

Section 7 authorizes \$5 million for the furtherance of the Act and stipulates that expenditure of any Federally appropriated money must be matched, one to one, with non-Federal monies and that donated monies will be construed, for purposes of this Section, as non-Federal matching monies.

Section 8 states that prior to the construction of the memorial, the General Services Administration shall exchange, sell, lease, donate or otherwise dispose of the Alfred P. Murrah Federal Building

to the Trust and that such transfer shall not be subject to the Public Building Act of 1959; the Federal Property and Administration Services Act of 1949 or any other Federal law establishing requirements or procedures for the disposal of Federal property.

Section 9 directs that 6 years after the first meeting of the Board, General Accounting Office shall conduct an interim study on the activities of the Trust (and how it is meeting its obligations under this Act) and report the results of that study to the Senate Committee on Energy and Natural Resources and Appropriations, and to the Committee on Resources and the Committee on Appropriations of the House of Representatives.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time this report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

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. 871. 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. 871, as ordered reported.

EXECUTIVE COMMUNICATIONS

On August 1, 1997, 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. 871. These reports had not been received at the time the report on S. 871 was filed. When these reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony of the Department of the Interior at the Subcommittee hearing follows:

STATEMENT BY KATHERINE H. STEVENSON, ASSOCIATE DIRECTOR OF CULTURAL RESOURCE STEWARDSHIP AND PARTNERSHIPS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you to address S. 871, a bill to establish the Oklahoma City National Memorial as a unit of the National Park System and to designate the Oklahoma City Memorial Trust. We support the establishment of a memorial for the victims of Oklahoma City, and look forward to working with the Committee dur-

ing the legislative process to finalize a concept that appropriately reflects the tragedy and its implications to the United States.

If enacted, S. 871 would create a new unit of the National Park System in Oklahoma City—a memorial to recognize the profound changes brought to so many lives the morning of April 19, 1995. The legislation would direct the National Park Service to provide technical assistance to the Oklahoma City Memorial Trust and, along with other Federal agencies, to carry out day-to-day visitor services programs at the Memorial.

After the bombing of the Alfred P. Murrah federal building, President Clinton recognized the impact of this event on all Americans by declaring the Sunday following the bombing a national day of mourning for the victims of the bombing. He asked the people of the United States to pray for the victims and the community when they gathered in their places of worship. He delivered a personal message to the children of Oklahoma City and this country letting them know that almost all the adults in this country are good people who love their children. He didn't want the children to believe something terrible about life, but wanted them to know that most adults are good people.

The President also traveled to Oklahoma City on that Sunday to participate in a memorial service for the bombing victims. At the service, the President personally thanked all those who worked so heroically to save lives and to solve this crime and all of those across the land who came to lend a hand. He pledged to do all he could to help heal the injured, and to rebuild the city. He praised the federal workers affected by this act, and thanked them for serving their country so well. The President promised to stand with all the people of Oklahoma City for as long as it takes.

The unity citizens from throughout the nation experienced after the Oklahoma City bombing found its expression in many ways. Along with the national day of mourning and the rededication of public servants to their calling, personal mementos were left, and continue to be left at the site of the bombing. Through citizen action, the Oklahoma City Memorial Foundation was established to create an appropriate memorial on the site. The Foundation has done a tremendous job of involving the public, defining its mission and goals, and holding a design competition for the memorial. Building upon these efforts is the legislation introduced by the Oklahoma delegation.

This legislation departs in two significant ways from the norm for creation of units of the National Park System. First, places that may be deemed historical in nature are not designated until the passage of a sufficient interval of time to allow for historical judgment—in general that is fifty years. Yet, this event is so clearly important to contemporary America that some kind of national recognition is appropriate now. Second, units of the National Park

System are not normally administered through other entities such as the Trust. Yet, the specific tie to local citizens, especially those citizens who lost family members, friends and colleagues in the Oklahoma City bombing, make it necessary to consider the best ways to ensure the close and continued involvement of those most affected by the tragedy in planning the memorial and interpreting its significance.

Mr. Chairman, we would like to explore with the Committee and the delegation the best way for us to work in partnership with the Oklahoma City Memorial Foundation. It was clear to us from the testimony given at the recent field hearing in Oklahoma City that it is the wish of local citizens and the State of Oklahoma to retain a strong level of local control and involvement in all aspects of Memorial's operation and interpretation.

We commend Senators Nickles and Inhofe, and the other members of the Oklahoma delegation in their efforts to appropriately memorialize the lives of the innocent victims of the Oklahoma City bombing. We look forward to working closely with the delegation and the Committee staff in developing a legislative concept which will work well for the Oklahoma City Memorial Foundation, the National Park Service, and all of those who have been affected by this tragic event.

That completes my remarks, Mr. Chairman. I would be happy to answer any questions that you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 871 as reported.

