

ADDITION OF COMMEMORATIVE PLAQUE, VIETNAM
VETERANS MEMORIAL

APRIL 13, 2000.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 3293]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3293) to amend the law that authorized the Vietnam Veterans Memorial to authorize the placement within the site of the memorial of a plaque to honor those Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

The amendment is as follows:

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

SECTION 1. ADDITION OF COMMEMORATIVE PLAQUE, VIETNAM VETERANS MEMORIAL.

Public Law 96-297 (94 Stat. 827; 16 U.S.C. 431 note), which authorized the Vietnam Veterans Memorial in the District of Columbia, is amended by adding at the end the following new section:

“SEC. 5. PLAQUE TO HONOR OTHER VIETNAM VETERANS WHO DIED AS A RESULT OF SERVICE IN THE VIETNAM WAR.

“(a) PLAQUE AUTHORIZED.—Notwithstanding section 3(c) of the Commemorative Works Act (40 U.S.C. 1003(c)), the American Battle Monuments Commission is authorized to place within the Vietnam Veterans Memorial a suitable plaque containing an inscription intended to honor those Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service, and whose names are not otherwise eligible for placement on the memorial wall.

“(b) SPECIFICATIONS.—The plaque shall be at least 6 square feet in size and not larger than 18 square feet in size, and of whatever shape as the American Battle Monuments Commission determines to be appropriate for the site. The plaque shall bear an inscription prepared by the American Battle Monuments Commission.

“(c) RELATION TO COMMEMORATIVE WORKS ACT.—Except as provided in subsection (a), the Commemorative Works Act (40 U.S.C. 1001 et seq.) shall apply to the design and placement of the plaque within the site of the Vietnam Veterans Memorial.

“(d) CONSULTATION.—In designing the plaque, preparing the inscription, and selecting the specific location for the plaque within the Vietnam Veterans Memorial, the American Battle Monuments Commission shall consult with the architects of the Vietnam Veterans Memorial Fund, Inc.

“(e) FUNDS FOR PLAQUE.—Federal funds may not be used to design, procure, or install the plaque. However, the preceding sentence does not apply to the payment of the salaries, expenses, and other benefits otherwise authorized by law for members of the American Battle Monuments Commission or other personnel (including detailees) of the American Battle Monuments Commission who carry out this section.

“(f) VIETNAM VETERANS MEMORIAL DEFINED.—In this section, the term ‘Vietnam Veterans Memorial’ means the structures and adjacent areas extending to and bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north side of the north Reflecting Pool walkway on the south and a line drawn perpendicular to Constitution Avenue 200 feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting pool walkway). This is the same definition used by the National Park Service as of the date of the enactment of this section, as contained in section 7.96(g)(1)(x) of title 36, Code of Federal Regulations.”

PURPOSE OF THE BILL

The purpose of H.R. 3293 is to amend the law that authorized the Vietnam Veterans Memorial to authorize the placement within the site of the memorial of a plaque to honor those Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3293 serves to honor those Vietnam veterans whose names are not technically eligible for placement on the Vietnam Veterans Memorial wall, but have died as a direct result of serving in the Vietnam War. Currently, the names on the Memorial wall honor those military personnel who died during the conflict. This plaque would commemorate those military personnel who died afterward and as a direct result of the war.

H.R. 3293 amends Public Law 96–297 which authorized the Vietnam Veterans Memorial, to authorize the placement of a plaque within the site of the memorial to honor those Vietnam veterans who died after their service in the Vietnam War, but as a direct result of that service. This bill would authorize the American Battle Monuments Commission to design and place the plaque and also to prepare an appropriate inscription in consultation with the Vietnam Veterans Memorial Fund, Inc. This bill specifies that the plaque contain an appropriate inscription and be placed within the legal description of the Vietnam Veterans Memorial in Washington, D.C. Federal funds may not be used for the design, procurement, and installation of the plaque.

COMMITTEE ACTION

H.R. 3293 was introduced on November 10, 1999, by Congressman Elton Gallegly (R-CA). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks and Public Lands. On March 16, 2000, the Subcommittee held a hearing on the bill. On March 23, 2000, the Subcommittee met to consider the bill. An amendment was offered by Congressman Gallegly which allowed greater flexibility for the dimensions of the plaque (at least 6, but no more than 18 total square feet), exempted the plaque from Section 3(c) of the Commemorative Works Act, and also provided that federal funds are still allowable for salaries, expenses, and benefits for the American Battle Monuments Commission. The amendment was adopted by voice vote and the bill, as amended, was then ordered favorably reported to the Full Committee by voice vote. On April 5, 2000, the Full Resources Committee met to consider the bill. No further amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of this bill could affect direct spending, but any such effects would be less than \$100,000 annually because privately-raised funds may be spent by the Department of the Interior without appropriation for maintenance of the plaque.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and rec-

ommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 12, 2000.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3293, a bill to amend the law that authorized the Vietnam Veterans Memorial to authorize the placement within the site of the memorial of a plaque to honor those Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3293—A bill to amend the law that authorized the Vietnam Veterans Memorial to authorize the placement within the site of the memorial of a plaque to honor those Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service

CBO estimates that enacting H.R. 3293 would have no significant impact on the federal budget. Because the bill could affect direct spending, pay-as-you-go procedures would apply. CBO estimates, however, that any such effects would be less than \$100,000 annually. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

H.R. 3293 would authorize the American Battle Monuments Commission to place within the Vietnam Veterans Memorial a plaque honoring certain veterans who died after their service in the Vietnam war. A private organization would design and construct the plaque in accordance with the Commemorative Works Act and without cost to the federal government. Under the Commemorative Works Act, any organization that receives a permit to construct a memorial in the District of Columbia or its environs must deposit an amount equal to 10 percent of the memorial's estimated construction cost in the U.S. Treasury. The funds deposited are then available without further appropriation for maintenance and preservation of the memorial.

According to the National Park Service (NPS), the Vietnam War in Memory Memorial, Inc. will finance the design and construction of the plaque. Based on information provided by the agency, CBO

estimates that the federal government would receive a deposit of less than \$100,000 once the plaque has been installed. The NPS would then spend a portion of this amount each year to maintain the memorial. Based on the experience with similar commemorative projects, CBO expects that no amounts would be received or spent by the federal government for several years after the bill is enacted. In any case, the collections and spending would offset each other over time.

The CBO staff contact is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

This bill is not intended to preempt State, local, or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as 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 proposed is shown in roman):

SECTION 5 OF THE ACT OF JULY 1, 1980

AN ACT To authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial

SEC. 5. PLAQUE TO HONOR OTHER VIETNAM VETERANS WHO DIED AS A RESULT OF SERVICE IN THE VIETNAM WAR.

(a) *PLAQUE AUTHORIZED.*—*Notwithstanding section 3(c) of the Commemorative Works Act (40 U.S.C. 1003(c)), the American Battle Monuments Commission is authorized to place within the Vietnam Veterans Memorial a suitable plaque containing an inscription intended to honor those Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service, and whose names are not otherwise eligible for placement on the memorial wall.*

(b) *SPECIFICATIONS.*—*The plaque shall be at least 6 square feet in size and not larger than 18 square feet in size, and of whatever shape as the American Battle Monuments Commission determines to be appropriate for the site. The plaque shall bear an inscription prepared by the American Battle Monuments Commission.*

(c) *RELATION TO COMMEMORATIVE WORKS ACT.*—*Except as provided in subsection (a), the Commemorative Works Act (40 U.S.C. 1001 et seq.) shall apply to the design and placement of the plaque within the site of the Vietnam Veterans Memorial.*

(d) *CONSULTATION.*—*In designing the plaque, preparing the inscription, and selecting the specific location for the plaque within the Vietnam Veterans Memorial, the American Battle Monuments Commission shall consult with the architects of the Vietnam Veterans Memorial Fund, Inc.*

(e) *FUNDS FOR PLAQUE.*—Federal funds may not be used to design, procure, or install the plaque. However, the preceding sentence does not apply to the payment of the salaries, expenses, and other benefits otherwise authorized by law for members of the American Battle Monuments Commission or other personnel (including detailees) of the American Battle Monuments Commission who carry out this section.

(f) *VIETNAM VETERANS MEMORIAL DEFINED.*—In this section, the term “Vietnam Veterans Memorial” means the structures and adjacent areas extending to and bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north side of the north Reflecting Pool walkway on the south and a line drawn perpendicular to Constitution Avenue 200 feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting pool walkway). This is the same definition used by the National Park Service as of the date of the enactment of this section, as contained in section 7.96(g)(1)(x) of title 36, Code of Federal Regulations.

ADDITIONAL VIEWS

H.R. 3293 is the most recent in a series of legislative proposals to add memorials to the National Mall. This particular measure would authorize a plaque to be placed within the site of the Vietnam Veterans' Memorial intended to honor soldiers who died as a result of their service in Vietnam but who are ineligible for inclusion on the Wall because their deaths occurred after the war ended. As with most such proposals, this legislation would honor a worthy group and its proponents feel that placement other than on the Mall would be inappropriate.

In this case, we do not oppose the bill's provision mandating placement of the plaque within the site of the existing Memorial, given the nexus between the existing Memorial and the proposed addition. However, the Commemorative Works Act of 1986 (CWA) was enacted to resolve the growing conflict between the proliferation of compelling memorial proposals and ever-shrinking space on the Mall. H.R. 3293 specifically exempts this proposal from the CWA but we continue to believe that, in most cases, Congress should provide general authorizations for memorials and allow the process contained within the CWA to resolve issues such as placement and design.

While we support the intent of H.R. 3293, there is one significant improvement which must be made in the bill before this measure is approved by the House. The legislation identifies a government agency, the American Battle Monuments Commission (ABMC) as the organization which will oversee placement of the plaque. Selection of the ABMC for this task is inappropriate for several important reasons.

First, placement of a plaque at the Vietnam Veterans' Memorial is inconsistent with the ABMC's mission. The ABMC is an independent, executive-branch agency which operates 24 cemeteries around the world, burial grounds for nearly 125,000 American war dead. The organization also oversees 27 memorials, the vast majority of which are located on foreign soil. The ABMC has had no involvement in the creation or administration of the Vietnam Veterans' Memorial, as most of its responsibilities lie overseas. The major exception to this overseas focus, responsibility for the proposed World War II Memorial, is likely to occupy most of the ABMC's domestic efforts.

What's more, the ABMC doesn't want the job. In testimony before the National Capitol Memorial Commission, the ABMC stated that, "responsibility for the design, procurement and installation of the plaque should rest with either the proponent or the Vietnam Veteran's Memorial Fund."

In addition, the ABMC has no mechanism to pay for this proposed plaque. The legislation specifies that no federal funds are to be used to, "design, procure, or install the plaque." While the bill

has been amended to exempt, "salaries, expenses and other benefits" for ABMC personnel, it is still unclear where the funds for the plaque itself will come from. Cost estimates have ranged from \$3,000 to more than \$10,000 and the ABMC testified before the Memorial Commission that they have no mechanism to accept donations for this specific project. In order for the ABMC to carry out this responsibility, either such a mechanism must be created, which would presumably divert funds from the WWII Memorial, or the funds must come out of the ABMC's "expense" budget, money now being spent on American cemeteries in Europe. Neither of these options seems attractive.

All of these problems could be avoided by replacing the ABMC with the Vietnam Veteran's Memorial Fund (VVMF) as the organization responsible for placing this plaque at the Vietnam Veteran's Memorial. The VVMF, was founded in 1979 for the express purpose of erecting a memorial to the Vietnam War on the National Mall. This organization conceived the idea for the Memorial, raised the more than \$8 million needed for its construction, conducted the design contest, oversaw construction, organized the dedication ceremonies and continues to raise funds for educational programs and maintenance. No memorial in Washington is more closely associated with one organization. The VVMF has the historical perspective, technical expertise and fund-raising ability needed to implement this legislation properly. Unlike the ABMC, the Fund has also expressed a desire to oversee this addition to the Memorial, if that is what Congress decides.

In fact, it is our understanding that the VVMF was the first choice of the sponsor of this legislation as well. However, because the Fund raised several concerns regarding this proposal, they were passed over in favor of the ABMC. In our view, it is shortsighted and inappropriate to remove the Fund from decisions which will alter a memorial they built in favor of an unrelated and unenthusiastic government agency, simply as means of punishing them for reticence early in the process. This is particularly true when such a move creates funding complications which could prove fatal to the entire project.

As it stands, H.R. 3293 has an obvious flaw. Fortunately an obvious solution exists and we hope it will be adopted.

GEORGE MILLER.
FRANK PALLONE, Jr.
MARK UDALL.

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