

Calendar No. 516

106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-273

DISABLED VETERANS' LIFE MEMORIAL FOUNDATION

APRIL 13, 2000.—Ordered to be printed

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

REPORT

[To accompany S. 311]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 311) to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1, after the enacting clause insert the following:
“TITLE I—THE DISABLED AMERICAN VETERANS MEMORIAL”.
2. On page 1, line 3 strike **“SECTION 1.”** and insert in lieu thereof the following: **“SECTION 101”**, and renumber the following sections accordingly.
3. On page 1, line 4, strike “The Disabled” and insert in lieu thereof the following: “Notwithstanding Section 3(c) of Public Law 99-652, as amended, (40 U.S.C. 1003(c)) the Disabled”.
4. At the end of the bill add the following new title:

TITLE II—COMMEMORATIVE WORKS ACT AMENDMENTS

SECTION 201. REFERENCE TO COMMEMORATIVE WORKS ACT.

(a) In this title the term “Act” means the Commemorative Works Act of 1986, as amended (Public Law 99-652; 40 U.S.C. 1001 et seq.).

SEC. 202. CLARIFICATION AND REVISIONS TO THE ACT.

(a) Section 1(b) of the Act (40 U.S.C. 1001(b)) is amended by striking the semicolon and inserting “and its environs, and to encourage the location of commemorative works within the urban fabric of the District of Columbia;”.

(b) Section 2 of the Act (40 U.S.C. 1002) is amended as follows:

- (1) In subsection (c) by striking “or a structure which is primarily used for other purposes” and inserting “that is not a commemorative work as defined by this Act”;
- (2) In subsection (d) by striking “person” and inserting “sponsor”;
- (3) In subsection (e) by striking “Areas I and II as depicted on the map numbered 869/86501, and dated May 1, 1986” and insert “the Reserve, Area I, and Area II as depicted on the map numbered 869/86501A, and dated March 23, 2000”;
- (4) By redesignating subsection (e) as subsection (f); and
- (5) By adding a new subsection (e) as follows:
 - “(e) the term “Reserve” means the great cross-axis of the Mall, which is a substantially completed work of civic art and which generally extends from the U.S. Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map described in subsection (f);”.
- (c) Section 3 of the Act (40 U.S.C. 1003) 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”;
 - (B) by striking “10” and inserting “25”; and
 - (C) by striking “the event.” and inserting “such war or conflict.”.
 - (2) In subsection (c) by striking “other than a military commemorative work as described in subsection (b) of this section”; and
 - (3) In subsection (d) by striking “House Oversight” and inserting “Resources”.
- (d) Section 4 of the Act (40 U.S.C. 1004) is amended as follows:
 - (1) By amending subsection (a) to read as follows:
 - “(a) The National Capital Memorial Commission is hereby established and shall include the following members or their designees:
 - “(1) Director, National Park Service (who shall serve as Chairman);
 - “(2) Architect of the Capitol;
 - “(3) Chairman, American Battle Monuments Commission;
 - “(4) Chairman, Commission of Fine Arts;
 - “(5) Chairman, National Capital Planning Commission;
 - “(6) Mayor, District of Columbia;
 - “(7) Commissioner, Public Buildings Service, General Services Administration;
 - and
 - “(8) Secretary, Department of Defense.”; and
 - (2) In subsection (b) by striking “Administrator” and inserting “Administrator (as appropriate)”.
- (e) Section 5 of the Act (40 U.S.C. 1005) is amended—
 - (1) By striking “Administrator” and inserting “Administrator (as appropriate)”; and
 - (2) By striking “869/8501, and dated May 1, 1986.” and inserting “869/8501A, and dated March 23, 2000.”.
- (f) Section 6 of the Act (40 U.S.C. 1006) is amended as follows:
 - (1) In subsection (a) by striking “3(b)” and inserting “3(d)”;
 - (2) By redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and
 - (3) By adding a new subsection (a) as follows:
 - “(a) Sites for commemorative works shall not be authorized within the Reserve after January 1, 2000.”.
- (g) Section 7 of the Act (40 U.S.C. 1007) is amended as follows:
 - (1) By striking “person” and inserting “sponsor” each place it appears;
 - (2) In subsection (a) by striking “designs” and inserting “design concepts”;
 - (3) In subsection (b) by striking “and Administrator” and inserting “it or Administrator (as appropriate)”;
 - (4) In subsection (b)(2) by striking “open space and existing public use; and” and inserting “open space, existing public use, and cultural and natural resources;”;
 - (5) In subsection (b)(3) by striking the period at the end and inserting a semicolon; and
 - (6) by adding the following new paragraphs:
 - “(4) 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 subsection 2(f);
 - “(5) 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

- “(6) Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site.”
- (h) Section 8 of the Act (40 U.S.C. 1008) is amended as follows:
- (1) In subsection (a)(3) and (a)(4) and in subsection (b) by striking “person” each place it appears and inserting “sponsor”;
 - (2) In subsection (b)(1) and (b)(2) by striking “persons” each place it appears and inserting “a sponsor”;
 - (3) By adding at the end of subsection (b)(1), “All such proceeds shall be available, without further appropriation, for the non-recurring repair of the sponsor’s commemorative work.”;
 - (4) In subsection (b)(2), by striking “Congress authorizes and directs that,” and inserting “Congress authorizes and directs that, upon request,”;
 - (5) In subsection (b)(2) in the first sentence “Administrator”, and insert “Administrator (as appropriate)”;
 - (6) By amending subsection (c) to read as follows:

“(c) The sponsor shall be required to submit to the Secretary or the Administrator (as appropriate) an annual report of operations, including financial statements audited by an independent certified public accountant, paid for by the sponsor authorized to construct the commemorative work.”.
 - (i) Section 9 of the Act (40 U.S.C. 1009) is hereby repealed.
 - (j) Section 10 of the Act (40 U.S.C. 1010) is amended as follows:
 - (1) by amending subsection (b) to read as follows:

“(b) 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 where such additional authority has been granted, unless:

 - “(1) the Secretary or the Administrator (as appropriate) has issued a construction permit for the commemorative work during that period; or
 - “(2) the Secretary or the Administrator, in consultation with the National Capital Memorial Commission, has made a determination that final design approvals have been obtained from the National Planning Commission and the Commission of Fine Arts and that 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 may extend the 7-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 will also expire.”; and
 - (2) By adding a new subsection (f) as follows:

“(f) The National Capital Planning Commission, in coordination with the Commission of Fine Arts and the National Capital Memorial Commission, shall complete its master plan to guide the location and development of future memorials outside the Reserve for the next 50 years, including evaluation of and guidelines for potential sites.”.

PURPOSE OF THE MEASURE

The purposes of S. 311, as ordered reported, are to authorize the Disabled Veterans’ LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs to honor veterans who become disabled while serving in the Armed Forces of the United States, and to amend the Commemorative Works Act to clarify and revise the standards for authorizing memorials and other commemorative works under the Act.

SUMMARY OF MAJOR PROVISIONS

Title I of the measure authorizes the Disabled Veterans LIFE Memorial Foundation to establish a memorial on Federal land in the District of Columbia or its environs, notwithstanding provisions of the Commemorative Works Act as amended (Public Law 99–652; 40 U.S.C. 1001 et seq.) that would otherwise preclude the memorial from being established.

Title II amends the Commemorative Works Act to clarify and revise the standards for placement of commemorative works on Federal lands in the District of Columbia and its environs covered by the Act. The major change made by title II is to designate an area known as the Reserve, encompassing the great cross-axis of the Mall in the District of Columbia, which generally extends from the U.S. Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial. Within the Reserve, no new memorials would be authorized after January 1, 2000. In addition, the measure expands the Area 1 designation to include certain lands on the west side of the Potomac River.

BACKGROUND AND NEED

The Commemorative Works Act of 1986 provides standards for the placement of memorials on lands administered by the National Park Service and the General Services Administration in the District of Columbia and its environs. The Act provides that specific congressional authorization is required for any new memorials that are to be located on the Federal lands covered by the Act, and makes a distinction between the monumental core area, where works of “preeminent historical and lasting significance” to the Nation may be located (Area I), and areas outside this zone where works of “lasting historical significance” can be placed.

The Act also established the National Capital Memorial Commission to advise the Secretary of the Interior and the Administrator of the General Services Administration on matters concerning commemorative works in the District of Columbia and its environs, and requires the organizations sponsoring commemorative works to consult with the Commission regarding the selection of alternative sites and designs for the work. Furthermore, the Act requires that prior to requesting a construction permit for a commemorative work, the sponsors must obtain the approval for the site and design proposals from the Secretary of the Interior, the National Capital Planning Commission, and the Commission of Fine Arts. The Act requires that for works proposed to be located in Area I, a separate Act of Congress approving the location is required.

The Disabled Veterans’ LIFE Memorial Foundation, a non-profit organization, is seeking authorization, under the Commemorative Works Act, to construct a memorial on Federal land in the Washington, DC area to honor disabled veterans who have served in the Armed Forces of the United States. S. 311, as reported, authorizes the establishment of such a memorial in the District of Columbia or its environs. As reported, the measure provides that the establishment of such a memorial shall be in compliance with the Commemorative Works Act, notwithstanding the 25-year waiting period required under section 3(c) of the Act.

Since the early part of the past century, on average, one new memorial has been constructed in the Nation’s Capital each year. In the last 20 years, 21 new memorials have been authorized, 7 of which have been built on or near the National Mall. 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, the Commission of Fine Arts, and the National Capital Planning

Commission have 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. In September 1999 the task force released for public comment a Commemorative Zone policy statement and map that helps preserve the open space and urban design integrity of the monumental core, while ensuring the distribution of cultural resources throughout the city. In January 2000, all three commissions adopted the new policy. Under this new policy, an area known as the Reserve would be established, generally encompassing the central cross axis of the Mall between the U.S. Capitol and the Lincoln Memorial, and between the Jefferson Memorial and the White House. Within the Reserve, the commissions will not approve new museum or memorial sites. The policy would also adjust the boundaries of Area I to include certain Federal lands on the west side of the Potomac River, in addition to those that are immediately adjacent to the Reserve. Area II encompasses the rest of the city with emphasis on the important North, South, and East Capitol Street axes, as well as circles and squares on major avenues, waterfront sites, gateways, and scenic overlooks. It is in this area where the task force will encourage development of new commemorative works.

S. 311, as reported, provides clarifications and revisions to the Commemorative Works Act, and codifies the new policies adopted by the commissions.

LEGISLATIVE HISTORY

S. 311 was introduced by Senators McCain, Coverdell, Cleland and Kerrey on January 26, 1999. The Subcommittee on National Parks, Historic Preservation and Recreation held a hearing on S. 311 on October 13, 1999.

On March 23, 2000 the Subcommittee on National Parks, Historic Preservation and Recreation held an oversight hearing to receive testimony on the status of monuments and memorials, and the new policies that have been adopted for locating new commemorative works in and around Washington, D.C.

At its business meeting on April 5, 2000, the Committee on Energy and Natural Resources ordered S. 311 favorably reported, with amendments.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on April 5, 2000, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 311, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of S. 311, the Committee adopted an amendment designating the original measure as title I. The amendment authorizes the establishment of the memorial, notwithstanding section 3 of the Commemorative Works Act (40 U.S.C. 1003) which establishes the criteria for qualifying commemorative works.

The amendment also adds a new title II, which amends the Commemorative Works Act to clarify and revise the standards for placement of commemorative works on federal lands in the District of Columbia and its environs. The amendment incorporates recommendations of the National Capital Planning Commission with respect to future management of the Mall and surrounding areas.

The amendment establishes an area known as the Reserve, which encompasses the great cross-axis of the Mall, generally extending from the U.S. Capitol to the Lincoln Memorial and from the White House to the Jefferson Memorial. Within this area, no new memorials would be authorized after January 1, 2000. The amendment also expands the area known as "Area I" to include certain lands west of the Potomac River.

In addition, other substantive changes made to the Act by the amendment include a clarification of what military commemorative works qualify for authorization under the Commemorative Works Act, and extending from 10 to 25 years the period that must elapse between the end of a war or military conflict and the establishment of a memorial.

The amendment provides that commemorative works designed primarily as museums may not be located within the area known as Area I, or in East Potomac Park, and provides that donor contributions to commemorative works may not be acknowledged in any manner as part of the work or its site.

The amendment also addresses the use of the monies deposited by a memorial's sponsor into a separate account in the U.S. Treasury. Pursuant to the Commemorative Works Act, these funds are to be used for non-recurring maintenance of the commemorative work, and the amendment clarifies that the funds are available for such use without further appropriation.

The amendment provides authority for the Secretary of the Interior or the Administrator of the General Services Administration (as appropriate) to administratively permit extensions to the seven-year period after enactment of legislative authority during which construction of a commemorative work must be started. The amendment provides for administrative extensions of up to three years in circumstances where final design approvals have been obtained and 75 percent of the amount estimated to be required to complete the memorial has been raised. The Committee has repeatedly considered legislation in recent years to extend the authorization period for specific memorials. This amendment should eliminate the need for future legislative extensions.

The amendment also directs the National Capital Planning Commission, in coordination with the Commission of Fine Arts and the National Capital Memorial Commission, to complete its master plan to guide the location and development of future memorials outside the Reserve for the next 50 years. The amendment is explained in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

TITLE I—THE DISABLED AMERICAN VETERANS MEMORIAL

Section 101(a) authorizes the Disabled Veterans' LIFE Memorial Foundation to establish a memorial under the provisions of the

Commemorative Works Act (40 U.S.C. 1001 et seq.) to honor disabled veterans who have served in the Armed Forces of the United States, notwithstanding the requirements of sections 3 (b) and (c) of such Act.

Section 101(b) requires the memorial to be established in accordance with the Commemorative Works Act.

Section 102 states that the Disabled Veterans' LIFE Memorial Foundation be solely responsible for accepting contributions and paying expenses for the establishment of the memorial. No federal funds may be used to pay any expenses for the establishment of the memorial.

Section 103 provides that if excess funds remain after payment of all expenses (including maintenance and preservation funds), the excess funds are to be deposited in a special account in the U.S. Treasury, to be used without further appropriation, for the maintenance of commemorative works in accordance with section 8(b)(1) of the Commemorative Works Act.

TITLE II—COMMEMORATIVE WORKS ACT AMENDMENTS

Section 201 defines the term "Act" to mean the Commemorative Works Act of 1986, as amended (Public Law 99-652; 40 U.S.C. 1001 et seq.).

Section 202 provides for several clarifications and revisions to the Act, including designation of an area known as the Reserve, in which no new memorials will be authorized.

Subsection (a) amends section 1(b) of the Act (40 U.S.C. 1001(b)) to clarify that its purpose of ensuring continued public use and enjoyment of open space pertains to the environs of the District of Columbia, as well as to the District itself. In addition, it enlarges this particular purpose by encouraging locations outside of the Mall for new commemorative works.

Subsection (b) amends section 2 of the Act (40 U.S.C. 1002) to clarify the definitions of certain terms used in the Act. The amendment clarifies the definition of "commemorative work"; substitutes the term "sponsor" in lieu of "person" with respect to an entity that is authorized by Congress to establish a commemorative work; and updates the map referenced in the Act. This subsection also adds a new definition: the term "Reserve" is defined to mean "the great cross-axis of the Mall which is a substantially completed work of civic art and which generally extends from the U.S. Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial".

Subsection (c) amends section 3 of the Act (40 U.S.C. 1003) to clarify the types of military memorials or commemorative works that are not authorized under the Commemorative Works Act. The amendment also extends from 10 to 25 years the period of time that must elapse between the end of a war or military conflict and the establishment of a memorial. This subsection also replaces the reference to the Committee on House Administration with the Committee on Resources in the House of Representatives.

Subsection (d) amends section 4 of the Act (40 U.S.C. 1004) to update the reference to the National Capital Memorial Commission, to clarify that its members may appoint designees to serve in their place, and to clarify that the commission normally advises ei-

ther the Secretary of the Interior or the Administrator of the General Services Administration, as appropriate.

Subsection (e) amends section 5 of the Act (40 U.S.C. 1005) to update the reference for the map depicting lands covered under the Act.

Subsection (f) amends section 6 of the Act (40 U.S.C. 1006) to direct that sites for commemorative works shall not be authorized within the Reserve after January 1, 2000.

Subsection (g) amends section 7 of the Act (40 U.S.C. 1007) to clarify the stage in the design process during which memorial sponsors should consult with the National Capital Memorial Commission, and to clarify that cultural and natural resources are to be protected to the maximum extent practicable in locating and designing commemorative works.

Subsection (g) also amends section 7 to direct that commemorative works primarily designed as museums may not be located on lands under the jurisdiction of the Secretary of the Interior in Area I or in East Potomac Park. In addition it clarifies that the National Capital Planning Commission and the Commission of Fine Arts may develop criteria to guide the design of commemorative works at specific sites. The amendment also directs that donor contributions may not be recognized in any manner as part of a commemorative work or its site.

Subsection (h) amends section 8 of the Act (40 U.S.C. 1008) to address expenditures of the monies deposited by a memorial's sponsor into a separate account in the U.S. Treasury. Pursuant to the Commemorative Works Act, these funds are to be used for non-recurring maintenance of the commemorative work, and the amendment clarifies that the funds are available for such use without further appropriation.

Subsection (h) also amends section 8 by deleting the reference to the authority of the Secretary or the Administrator to suspend a sponsor's activities if it is determined that fund raising efforts have misrepresented an affiliation with a commemorative work or the United States.

Subsection (i) repeals section 9 of the Act (40 U.S.C. 1009), which provided for the establishment of sites where commemorative works could be displayed on a temporary basis.

Subsection (j) amends section 10 of the Act (40 U.S.C. 1010) to provide authority for the Secretary of the Interior or the Administrator of the General Services Administration (as appropriate) to administratively permit extensions to the seven-year period after enactment of legislative authority during which construction of a commemorative work must be started. The amendment provides for an administrative extension of up to three years in circumstances where final design approvals have been obtained, and at least 75 percent of the funds estimated to be required to complete the memorial have been raised.

Subsection (j) also amends section 10 to direct the National Capital Planning Commission, in coordination with the Commission of Fine Arts and the National Capital Memorial Commission to complete its master plan to guide the location and development of future monuments and memorials outside the Reserve over the next 50 years.

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, April 11, 2000.

Hon. FRANK H. MURKOWSKI,
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. 311, a bill to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes.

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.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 311—A bill to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes

CBO estimates that enacting S. 311 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 \$500,000 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.

S. 311 would authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in accordance with the Commemorative Works Act, and without the use of federal funds. Under that act, any association 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.

Based on information provided by the National Park Service (NPS), CBO estimates that the federal government would receive a deposit of less than \$500,000. The NPS would 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.

Other provisions of S. 311, which would make technical and other amendments to the Commemorative Works Act, would also have no significant impact on the federal budget.

On April 11, 2000, CBO prepared a cost estimate for H.R. 1509, a similar bill, as ordered reported by the House Committee on Resources on April 5, 2000. The estimated costs of the two bills are the same.

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

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. 311. 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. 311.

EXECUTIVE COMMUNICATIONS

The legislative report received by the Committee from the Department of the Interior setting forth the Executive agency recommendation relating to S. 311, is set forth below. The testimony provided by the Department of the Interior at the Subcommittee oversight hearing on March 23, 2000, is also set forth below:

STATEMENT OF JOHN G. PARSONS, ASSOCIATE REGIONAL DIRECTOR FOR LANDS, RESOURCES AND PLANNING, NATIONAL PARK SERVICE, NATIONAL CAPITAL REGION, AND CHAIRMAN, NATIONAL CAPITAL MEMORIAL COMMISSION

Mr. Chairman, thank you for the opportunity to present the Department's view on the process of erecting commemorative works in the Nation's Capital.

On May 21, 1997, the National Park Service testified before this committee on bills proposed to extend legislative authority for previously authorized memorials. As a result of that hearing the committee expressed an interest in an evaluation of how the Commemorative Works Act of 1986 (the Act) is functioning. Pursuant to your request, the three approval bodies established a joint task force to consider the Act. The joint task force concluded that there are some provisions that could be perfected to better meet the needs of memorial sponsor groups and the Federal agencies that manage the lands on which the memorials are to be built. The joint task force will soon submit its legislative proposal for interagency review; once the proposal has been cleared, we will submit draft legislation for the Committee's consideration.

A major tenet of both Pierre L'Enfant's 1791 plan and the 1901 McMillan plan for the Nation's Capital was to provide suitable public spaces for the erection of memorials and monuments that commemorate the significant people

and events in our nation's history. Although these plans provided hundreds of locations for national monuments and memorials, in the long term the number of sites are, quite simply, dwindling.

Since 1852, over 150 memorials have been erected in the Nation's Capital, which amounts to approximately one dedication per year. Just since the dedication of the Vietnam Veterans Memorial in 1982, we have dedicated 13 memorials and are working on 16 active memorial projects. Two of these are under construction, 10 are authorized and in various stages of approval, and 4 are seeking congressional authorization.

Since the hearing in 1997, the National Capital Planning Commission (NCPC) produced a plan for the next 100 years entitled "Extending the Legacy, Planning America's Capital for the 21st Century," which builds on the L'Enfant and McMillan Plans. This plan, which we support, proposes to extend the boundaries of the existing Monumental Core, using the Capitol as the center point and extending in both directions on North and South Capitol Streets. It is designed to protect the open space of the monumental core while expanding opportunities for memorials as well as public and private development as new sections of the city are revitalized. In furtherance of the Legacy Plan, the NCPC, in conjunction with the joint task force, is producing a master plan for memorials and museums.

The most significant outcome of the master plan and task force effort is the delineation of the cross axis of the monumental core as a completed work of civic art upon which no more memorials should be authorized to be placed, with the exception of the World War II Memorial at the Rainbow Pool site.

The Act contains specific criteria for guiding approval of sites and designs of memorials. New memorials must avoid encroachment with existing memorials and must preserve open space and existing public use to the maximum extent practicable.

The Act also created the National Capital Memorial Commission, chaired by the Director of the National Park Service. This 8-member commission has proven to be a valuable asset to assist proponents, the Congress and others concerned with commemorative works early in the process. The NCMC provides a forum for deliberation on subject matter of proposed memorials and has advised the Congress and the Secretary of the Interior as to its conformance with the provisions of the Act. Furthermore, it is the first forum for public discussion of site and design concepts of authorized memorials prior to submission to the three approval bodies. The NCMC is functioning well.

The Act delegated decision-making on the siting and design of memorials to those agencies already legislatively charged with planning and urban design review authority—the Secretary of the Interior, the National Capital

Planning Commission and the Commission of Fine Arts. By necessity, the selection of the site for a memorial must precede the design in a two-step process. That is, one cannot design a memorial until the site and its context are known. Experience has shown that each site has limitations on the appropriate size of a memorial.

The site selection and design process is rigorous and, at times, trying for the sponsors undertaking the erection of these memorials. We lend much assistance to the sponsors guiding them through the approval process. All have felt the ultimate product was better for the effort.

One issue of particular concern is the practice of providing extensions of authorizations to memorial sponsors who do not meet the 7-year time period provided for in the Act. As you will recall, some sponsors have had difficulty meeting this deadline and have appealed to Congress for extensions. We would point out that of the 19 memorials authorized since 1986, eight began construction within 7 years and six have required extensions. These six have received extensions of up to 15 years. The intent of the 7-year authorization is to ensure that a sponsor does not hold on to a valuable site for an extended period with no prospect of completing a memorial. If adequate public support for a memorial cannot be found, its authorization should lapse. In all of the extensions given to date, no threshold criteria were required. In one case we had not heard from the sponsor of a memorial for the entire 7-year period since its authorization prior to recent reauthorization. Another has encumbered a special site that has been desired by many others over the past 12 years. Others have conscientiously proceeded through the entire design process and obtained necessary approvals but are simply having difficulty raising the funds needed to construct the memorial. We intend to address this matter in our legislative proposal.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions you may have.

COMMITTEE CORRESPONDENCE

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, October 18, 1999.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to your request for views on S. 311, a bill authorizing the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the Armed Forces of the United States.

The Administration supports the establishment of a memorial to honor disabled veterans on federal lands in the District of Columbia or its environs. Unfortunately, the requirements of the Com-

memorative Works Act effectively preclude consideration of such a memorial. The Administration therefore stands ready to work with the Committee to amend S. 311 so that consideration of the memorial may proceed unimpeded, yet comply with the spirit of the Commemorative Works Act. We believe the amendments noted below will do just that.

S. 311 specifies that the Disabled Veterans LIFE Memorial shall conform to the provisions of the Commemorative Works Act of 1986. The Commemorative Works Act governs placement of memorials on property administered by the National Park Service and the General Services Administration. Section 3 of the Commemorative Works Act provides guidance on the types of memorials that may be established and placed on parkland. In this section, Congress specifically precluded memorials to groups of individuals until after the 25th anniversary of the death of the last surviving member of the group. Further, Congress restricted military memorials to wars and branches of the Armed Forces.

The Disabled Veterans LIFE Memorial would honor disabled veterans from all branches of the United States Armed Forces and would be a memorial to both those disabled veterans still living and to those that have died. We believe that a commemorative work honoring the sacrifices of military men and women still living, however meritorious such recognition may be, on land in the nation's capital governed by the Commemorative Works Act, is contrary to both the specific provisions of that act and its legislative history.

The National Capital Memorial Commission considered S. 311 at its meeting on April 13. The Memorial Commission deferred a decision on this sensitive issue and requested the opinion of the Department of the Interior's Office of the Solicitor on the applicability of the Commemorative Works Act to S. 311. The Department of the Interior Office of the Solicitor's opinion was the Disabled Veterans LIFE Memorial as proposed in S. 311 would not conform to the Commemorative Works Act. At its meeting on September 23, the National Capital Memorial Commission reconsidered S. 311. In light of the opinions of the Office of the Solicitor, the Memorial Commission voted unanimously to advise the Secretary and the Congress that the Disabled Veterans LIFE Memorial would not comply with Section 3 of the Commemorative Works Act.

On the basis of the advice of the National Capital Memorial Commission as well as our experience and understanding of the legislative history of the Commemorative Works Act, we believe Congress intended that future military memorials, other than those explicitly allowed by the act, be placed on military land. The Congressionally-mandated standards for the placement of commemorative works in the nation's capital are strict. Thus, we recommend that S. 311 be amended by deleting any reference to the Commemorative Works Act and by authorizing the placement of the memorial on other land in Washington, D.C., or its environs instead of on lands governed by the Commemorative Works Act. This placement would be similar to recent authorizations for memorials on the Pan Am 103 crash and the Army 3rd Division. Finally, we recommended that such a memorial be submitted to the National

Capital Planning Commission and Commission on Fine Arts for site and design approval.

The Department does not wish to diminish the important contributions of our nation's disabled veterans; however, we feel that the Commemorative Works Act is not the proper vehicle for establishing such a memorial.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD J. BARRY,
*Assistant Secretary for Fish
and Wildlife and Parks.*

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. 311, 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 proposed is shown in roman):

PUBLIC LAW 99-652, COMMEMORATIVE WORKS ACT

AN ACT To provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes.

PURPOSES

SECTION 1. The purposes of this Act are as follows:

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

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

(c) to preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital; and

(d) to ensure that future commemorative works in areas administered by the National Park Service and the General Services Administration in the District of Columbia and its environs (1) are appropriately designed, constructed, and located and (2) reflect a consensus of the lasting national significance of the subjects involved.

DEFINITIONS

SEC. 2. As used in this Act—

(a) the term "Secretary" means the Secretary of the Interior;

(b) the term "Administrator" means the Administrator of the General Services Administration;

(c) 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. 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] *that is not a commemorative work as defined by this Act*;

(d) the term [“person”] “sponsor” means a public agency, and an individual, group or organization that is described in section 501(c)(3) of title 26 and exempt from tax under section 501(a) of title 26, and which is authorized by Congress to establish a commemorative work in the District of Columbia and its environs;

(e) *the term “Reserve” means the great cross-axis of the Mall, which is a substantially completed work of civic art and which generally extends from the U.S. Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial as depicted on the map described in subsection (f)*;

[(e)] (f) notwithstanding any other provisions of law, 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 [Areas I and II as depicted on the map numbered 869/86501, and dated May 1, 1996] *the Reserve, Area I, and Area II as depicted on the map numbered 869/86501A, and dated March 23, 2000.*

CONGRESSIONAL AUTHORIZATION OF COMMEMORATIVE WORKS IN THE DISTRICT OF COLUMBIA AND ITS ENVIRONS

SEC. 3. (a) No commemorative work may be established on Federal lands referred to in section 1(d) in the District of Columbia and its environs unless specifically authorized by Act of Congress. All such authorized commemorative works shall be subject to applicable provisions of this Act.

(b) A military commemorative work may be authorized only to commemorate a war or similar major military conflict or to commemorate any branch of the Armed Forces. No commemorative [work commemorating a lesser conflict] *work solely commemorating a limited military engagement* or a unit of an Armed Force shall be authorized. Commemorative works to a war or similar major military conflict shall not be authorized until at least [10] 25 years after the officially designated end of [the event] *such engagement*.

(c) A commemorative work commemorating an event, individual, or group of individuals, [other than a military commemorative work as described in subsection (b) of this section,] shall not be authorized until after the 25th anniversary of the event, death of the individual, or death of the last surviving member of the group.

(d) In considering legislation authorizing commemorative works within the District of Columbia and its environs, the Committee on [House Oversight] *Resources* of the House of Representatives and the Energy and Natural Resources Committee of the Senate shall solicit the views of the National Capital Memorial Commission.

NATIONAL CAPITAL MEMORIAL COMMISSION

SEC. 4 (a) **【The National Capital Memorial Advisory Committee as established by the Secretary is redesignated as the National Capital Memorial Commission. The membership of the Commission shall be expanded to include:】** *The National Capital Memorial Commission is hereby established and shall include the following members or their designees:*

- (1) Director, National Park Service (*who shall serve as Chairman*);
- (2) Architect of the Capitol;
- (3) Chairman, American Battle Monuments Commission;
- (4) Chairman, Commission of Fine Arts;
- (5) Chairman, National Capital Planning Commission;
- (6) Mayor, District of Columbia;
- (7) Commissioner, Public Buildings Service, General Services Administration;
- (8) Secretary, Department of Defense;

(b) The National Capital Memorial Commission shall advise the Secretary and the **【Administrator】** *Administrator (as appropriate)* on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission shall meet at least twice annually.

AVAILABILITY OF MAP DEPICTING AREA I AND AREA II

SEC. 5. The Secretary and the **【Administrator】** *Administrator (as appropriate)* shall make available, for public inspection and appropriate offices of the National Park Service and the General Services Administration, the map numbered **【869/86501, and dated May 1, 1986】** *869/8501A, and dated March 23, 2000.*

SPECIFIC CONDITIONS APPLICABLE TO AREA I AND AREA II

SEC. 6. (a) *Sites for commemorative works shall not be authorized within the Reserve after January 1, 2000.*

【(a)】 (b) Area I.—The Secretary or Administrator (as appropriate) may, after seeking the advice of the National Capital Memorial Commission, recommend the location of a commemorative work in Area I only if the Secretary or Administrator (as appropriate) determines that the subject of the commemorative work is of preeminent historical and lasting significance to the Nation. The Secretary or Administrator (as appropriate) shall notify the National Capital Memorial Commission and the committees of Congress specified in section **【3(b)】** *3(d)* of the recommendation by the Secretary or Administrator (as appropriate) that a commemorative work should be located in Area I. The location of a commemorative work in Area I shall be deemed not authorized, unless, not later than 150 calendar days after such notification, the recommendation is approved by law.

【(b)】 (c) Area II.—Commemorative works of subjects of lasting historical significance to the American people may be located in Area II.

SITE AND DESIGN APPROVAL

SEC. 7. (a) Any [person] *sponsor* authorized by law to establish a commemorative work in the District of Columbia and its environs shall comply with each of the following requirements before requesting the permit for the construction of the commemorative work:

(1) Such [person] *sponsor* shall consult with the National Capital Memorial Commission regarding the selection of alternative sites and [designs] *design concepts* for the commemorative work.

(2) Following consultation in accordance with paragraph (1), the Secretary or Administrator (as appropriate) shall submit, on behalf of such [person] *sponsor*, site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission for their approval.

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

(1) to the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the commemorative work;

(2) a commemorative work shall be so located as to prevent interference with, or encroachment upon, any existing commemorative work and to protect, to the maximum extent practicable, [open space and existing public use; and] *open space, existing public use, and cultural and natural resources*;

(3) a commemorative work shall be constructed of durable material suitable to the outdoor environment. Landscape features of commemorative works shall be compatible with the climate[.];

(4) *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 subsection 2(f);*

(5) *the National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specified 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*

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

CRITERIA FOR ISSUANCE OF A CONSTRUCTION PERMIT

SEC. 8 (a) Prior to issuing a permit for the construction of a commemorative work in the District of Columbia and its environs, the Secretary or Administrator (as appropriate) shall determine that:

(1) the site and design have been approved by the Secretary or Administrator (as appropriate), the National Capital Planning Commission and the Commission of Fine Arts;

(2) knowledgeable persons qualified in the field of preservation and maintenance have been consulted to determine struc-

tural soundness and durability of the commemorative work, and to assure that the commemorative work meets high professional standards;

(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 (as appropriate); and

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

(b) In addition to the foregoing criteria, no construction permit shall be issued unless the [person] *sponsor* authorized to construct the commemorative work has donated an amount equal to 10 per centum of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work: *Provided*, That 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 per centum of the funding for such work is provided by private sources.

(1) Notwithstanding any other provision of law, all moneys provided by [persons] *a sponsor* for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury. *All such proceeds shall be available, without further appropriation, for the non-recurring repair of the sponsor's commemorative work.*

(2) [Congress authorizes and directs that] *Congress authorizes and directs that, upon request*, the Secretary of the Treasury shall make all or a portion of such moneys available to the Secretary or the [Administrator] *Administrator (as appropriate)* at his request for maintenance of commemorative works. Under no circumstances may the Secretary or Administrator request funds from the separate account exceeding the total moneys deposited by [persons] *a sponsor* establishing commemorative works in areas he administers. The Secretary and the Administrator shall maintain an inventory of funds available for such purposes: *Provided*, That such moneys shall not be subject to annual appropriations.

(c)[(1) The Secretary or the Administrator (as appropriate) may suspend any activity under the authority of this chapter with respect to the establishment of a commemorative work if the Secretary or Administrator determines the fundraising efforts with respect to the commemorative work have misrepresented an affiliation with the commemorative work or the United States.]

[(2)] The [person] *sponsor* shall be required to submit to the Secretary or Administrator an annual report of operations, including financial statements audited by an independent certified public accountant, paid for by the [person] *sponsor* authorized to construct the commemorative work.

[TEMPORARY SITE DESIGNATION]

SEC. 9. (a) If the Secretary, in consultation with the National Capital Memorial Commission, determines that a site where commemorative works may be displayed on a temporary basis is nec-

essary in order to aid in the preservation of the limited amount of open space available to residents of, and visitors to, the Nation's Capital, a site may be designed on lands administered by the Secretary in the District of Columbia. A designation may not be made under the preceding sentence unless, at least one hundred and twenty days before the designation, the Secretary, in consultation with the National Capital Memorial Commission, prepares and submits to the Congress a plan for the site. The plan shall include specifications for the location, construction, and administration of the site, and criteria for displaying commemorative works at the site.

(b) Any commemorative work displayed at the site shall be installed, maintained, and removed at the sole expense and risk of the person authorized to display the commemorative works. Such person shall agree to indemnify the United States for any liability arising from the display of the commemorative work under this section.】

MISCELLANEOUS PROVISIONS

SEC. 10. (a) Complete documentation of design and construction of each commemorative work located in the District of Columbia and its environs shall be provided in the Secretary or the Administrator (as appropriate) and shall be permanently maintained in the manner provided by law.

(b) 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 where such additional authority has been granted*, unless

(1) the Secretary or Administrator (as appropriate) has issued a construction permit for the commemorative work during that period【.】; or

(2) *the Secretary or the Administrator, in consultation with the National Capital Memorial Commission, has made a determination that final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts and that 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 may extend the 7-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 will also expire.*

(c) Upon completion of any commemorative work within the District of Columbia and its environs, the Secretary or Administrator (as appropriate) shall assume responsibility for the maintenance of such work.

(d) The Secretary and the Administrator shall develop appropriate regulations or standards to carry out this chapter.

(e) This chapter shall not apply to commemorative works authorized by a law enacted before the commencement of the Ninety-ninth Congress.

(f) The National Capital Planning Commission, in coordination with the Commission of Fine Arts and the National Capital Memorial Commission, shall complete its master plan to guide the location and development of future memorials outside the Reserve for the next 50 years, including evaluation of and guidelines for potential sites.

SHORT TITLE

SEC. 11. This Act may be cited as the “Commemorative Works Act”.

