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### COLD WAR SITES AND RESOURCES

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SEPTEMBER 9, 2002.—Ordered to be printed

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

### R E P O R T

[To accompany H.R. 107]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 107) to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the Act, as amended, do pass.

The amendments are as follows:

1. On page 2, line 17, strike “missiles,” and insert “missiles, nuclear weapons sites (such as the Nevada test site),”.
2. On page 3, line 8, strike “nominated;” and insert “nominated; and”.
3. On page 3, beginning at line 9, strike all through line 11.
4. On page 3, renumber “(D)” as “(C)”.

#### PURPOSE OF THE MEASURE

The purpose of H.R. 107 is to require the Secretary of the Interior to conduct a study to identify sites and resources and to propose alternatives for the commemoration and interpretation of the Cold War.

#### BACKGROUND AND NEED

Currently, there is only one unit of the National Park System related to the Cold War—the Minuteman Missile National Historic Site in South Dakota, established two years ago to memorialize the role of Intercontinental Ballistic Missiles in our Nation’s defense system.

There are likewise few Cold War-related national historic landmarks or listings on the National Register of Historic Places. Out of 2,329 designated national historic landmarks, only five recognize civilian or military aspects of Cold War history; while out of more than 72,000 listings on the National Register of Historic Places, only 17 (including the five landmarks) address aspects of the Cold War.

Of course, the Cold War is a very recent era in our history, which provides a ready explanation for the relatively small number of recognized Cold War sites. With or without the theme study called for by H.R. 107 the numbers of officially commemorated Cold War sites will likely increase over time.

Nevertheless, a strong case can be made that a National Historic Landmarks theme study is an appropriate vehicle for commemorating an event such as the Cold War, which profoundly affected Americans through occurrences that are not primarily identified with a few specific sites. The National Historic Landmarks program was established by the Act of August 21, 1935 (codified at 16 U.S.C. 461 et seq. and commonly known as the Historic Sites Act), and is implemented according to Title 36 Code of Federal Regulations Part 65. The program's mission is to identify those places that best illustrate the themes, event, or persons that are nationally significant to the history of the United States and that retain a high degree of integrity. National Historic Landmark program regulations require consultation with Federal, State, and local governments; national and statewide associations; and a variety of other interested parties.

As an example of the program's application, in 2000 the National Park Service completed and transmitted to Congress a National Historic Landmark theme study on the history of racial desegregation of public schools. This study was authorized by Public Law 105-356, the Act that established the Little Rock Central High School National Historic Site. The significance of numerous properties is currently being evaluated. So far, sites in nine states and the District of Columbia have been recommended for consideration as national historic landmarks.

Other theme studies currently being conducted by the National Park Service include one related to the history of the labor movement, another on the earliest inhabitants of North America, and a third on sites associated with Japanese Americans.

#### LEGISLATIVE HISTORY

H.R. 107 was sponsored by Representative Hefley on January 3, 2001 and passed by the House of Representatives on December 18, 2001. The Subcommittee on National Parks held a hearing on H.R. 107 on June 12, 2002. At its business meeting on July 31, 2002, the Committee on Energy and Natural Resources ordered H.R. 107 to be favorably reported, as amended.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 31, 2002, by voice vote of a quorum present, recommends that the Senate pass H.R. 107, if amended as described herein.

## COMMITTEE AMENDMENT

During the consideration of H.R. 107, the Committee adopted four joint staff amendments. Amendment #1 clarified that the Secretary shall consider nuclear weapon sites among the Cold War resources studied. Amendment #2 conforms the surrounding text to the elimination of studying for a central repository. Amendment #3 eliminates the requirement that the Secretary shall make recommendations on the suitability and feasibility of establishing a central repository for Cold War artifacts and information. The fourth amendment conforms the surrounding text as a result of the elimination of section C. The amendments are described in the section-by-section analysis, below.

## SECTION-BY-SECTION ANALYSIS

Section 1(a) directs the Secretary of the Interior, in consultation with various agencies and individuals, to conduct a National Historic Landmark theme study to identify sites and resources of significance to the Cold War. The study shall include consideration of the inventory of sites and resources associated with the Cold War as compiled by the Secretary of Defense pursuant to section 8120(b)(9) of the Department of Defense Appropriations Act of 1991 (Pub. Law 101-511). The Secretary of the Interior shall also consider other military and nonmilitary sites and resources, including intercontinental ballistic missiles, nuclear weapons sites (such as the Nevada test site), manufacturing facilities, and defensive radar networks, among other resources.

Subsection (b) outlines the contents of the study. The study shall include recommendations for memorializing and interpreting sites and resources, including recommendations of sites for potential inclusion in the National Park System or for designation as national historic landmarks. The study shall also recommend cooperative arrangements with various entities, and cost estimates for carrying out the various recommendations.

Subsection (c) requires public involvement in the study, and its submission to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 3 years of the funding of the study.

Section 2 requires the Secretary of the Interior to publish an interpretive handbook on the Cold War within four years after funding is made available for such a purpose. The Secretary shall also disseminate information gathered through the study by other appropriate means.

Section 3 authorizes \$300,000 to be appropriated to carry out this Act.

## 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, August 12, 2002.*

Hon. JEFF BINGAMAN,  
*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 H.R. 107, an act to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, 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,

ROBERT A. SUNSHINE  
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*H.R. 107—An act to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, and for other purposes*

H.R. 107 would direct the Secretary of the Interior to conduct a study to identify sites that are significant to the Cold War. The study would include recommendations for commemorating and interpreting the identified sites and estimates of the costs of carrying out those recommendations. The legislation would require the Secretary to report to the Congress on its findings within three years of receiving funds for the study. The Secretary would publish an interpretive handbook on the Cold War within the year following the report. Finally, H.R. 107 would authorize the appropriation of \$300,000 to conduct the study.

Assuming appropriation of the authorized amount, CBO estimates that it would cost the National Park Service \$300,000 over the next four years to conduct the required study, report to the Congress, and publish the handbook. H.R. 107 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On September 21, 2001, CBO transmitted a cost estimate for H.R. 107 as ordered reported by the House Committee on Resources on September 12, 2001. The two versions of the legislation are very similar, and the cost estimates are identical.

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

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 H.R. 107. The bill is not a regulatory measure in the sense of im-

posing 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 H.R. 107.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to H.R. 107 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, DC, July 24, 2002.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This letter sets forth the views of the Department of the Interior on S. 1257 and H.R. 107. These bills would require that the Secretary of the Interior conduct a theme study to identify sites and resources associated with the Cold War and to recommend ways to commemorate and interpret that period of our nation's history.

The Department supports this legislation if amended. We believe that it is wholly appropriate for the National Park Service to undertake a study that will help ensure that the history of the Cold War era is preserved for future generations of Americans. However, the Administration did not request funding for this study or any other National Historic Landmark theme study in Fiscal Year 2003. Theme studies are not the same as special resource studies, which assess the suitability and feasibility of adding a site to the National Park System. Theme studies may identify sites that may be appropriate candidates for special resource studies, but these studies themselves do not evaluate sites for possible addition to the National Park System. Therefore, theme studies do not have the potential to lead directly to new operation, maintenance or other costs for the National Park Service.

S. 1257 and H.R. 107 would require the Secretary of the Interior to conduct a National Historic Landmark theme study to identify sites and resources in the United States that are significant to the Cold War. The bills specifically provide that the study consider the inventory of Cold War resources that has been compiled by the Department of Defense and other historical studies and research on various types of military resources. They also require the study to include recommendations for commemorating these resources and for establishing cooperative arrangements with other entities.

In addition to authorizing the theme study, S. 1257 and H.R. 107 would require the Secretary to prepare and publish an interpretive handbook on the Cold War and to disseminate information gathered through the study in other ways. S. 1257, but not H.R. 107 as amended, would also require the Secretary to establish a Cold War Advisory Committee to consult on the study. S. 1257 and H.R. 107 both authorize appropriations of \$300,000 to carry out the legislation.

The National Historic Landmarks program was established by the Act of August 21, 1935, commonly known as the Historic Sites Act (16 U.S.C. 461 et seq.) and is implemented according to 36 CFR Part 65. The program's mission is to identify those places that best illustrate the themes, events, or persons that are nationally significant to the history of the United States and that retain a high degree of integrity. Potential national historic landmarks are often identified through theme studies such as the one that would be authorized by this legislation.

For example, in 2000, the National Park Service completed and transmitted to Congress a National Historic Landmark theme study on the history of racial desegregation of public schools, which was authorized by Public Law 105-356, the Act that established the Little Rock Central High School National Historic Site. Federal, state, and local officials across the country are now using this study to identify and evaluate the significance of numerous properties. So far, properties in nine states and the District of Columbia have been recommended for consideration as national historic landmarks. Currently the National Park Service is conducting several other theme studies, including one related to the history of the labor movement, another on the earliest inhabitants of Eastern North America, and another on sites associated with Japanese Americans during World War II.

At the moment, the history of the Cold War has some presence in the National Park System and on the two lists of historic sites maintained by the National Park Service. The National Park System includes one unit related to the Cold War, the Minuteman Missile National Historic Site in South Dakota, which Congress established in 1999 to preserve and interpret the role of Intercontinental Ballistic Missiles in our nation's defense system.

Out of 2,341 designated national historic landmarks, five recognize civilian or military aspects of Cold War history, and out of nearly 75,000 listings on the National Register of Historic Places, 17 (including the five landmarks) are related to the Cold War. The relatively small number of recognized sites is due in large part to the fact that the Cold War has only recently been viewed as historically important. With or without a theme study, these numbers would likely increase over time, and the Department of Defense could take steps on its own to identify these sites under their jurisdiction.

Although S. 1257 and H.R. 107 as passed by the House are very similar, there are some important differences between the two. As introduced, both H.R. 107 and S. 1257 including a provision requiring the Secretary to establish a Cold War Advisory Committee to assist with the study [Section 3 of S. 1257]. At our request, the House deleted this provision from H.R. 107. Whether this committee acts on H.R. 107 or S. 1257, we strongly recommend that the advisory commission be omitted. In our view, such a committee is unnecessary and would add greatly to the cost of a study and time required to complete it due to the legal requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

National Historic Landmark program regulations already require consultation with Federal, state, and local governments; national and statewide associations; and a variety of other interested parties. Through partnering with a national historical organization,

using a peer-review process, and consulting with appropriate subject experts as well as the general public, the National Park Service would ensure that the broadest historical perspectives are represented in any study it undertakes.

Another difference between S. 1257 and H.R. 107 is a provision requiring the inclusion in the study of recommendations on the suitability and feasibility of establishing a central repository for Cold War artifacts and information. This provision is found in H.R. 107, but not in S. 1257. Studying and developing recommendations of that nature would be an undertaking that is well beyond the scope of a theme study, and that also could consume a large portion of the \$300,000 authorized for the legislation. We urge that this provision [Section 1(b)(1)(C) of H.R. 107] be omitted from the legislation reported by this committee.

In addition, we have been informed by the Department of Justice that the provisions of the bill that would require the Secretary of the Interior to make recommendations to Congress concerning federal protection for Cold War sites appear to violate the Recommendations Clause of the Constitution, which reserves to the President the power to decide whether it is necessary or expedient for the Executive Branch to make legislative policy recommendations to the Congress. The Administration would be pleased to provide language to remedy the bill's constitutional defects.

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,

CRAIG MASON,  
*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, the Committee notes that no changes in existing law are made by the Act H.R. 107, as ordered reported.

