

# Calendar No. 200

108TH CONGRESS  
1ST SESSION

# S. 499

[Report No. 108-92]

To authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

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## IN THE SENATE OF THE UNITED STATES

MARCH 3, 2003

Ms. LANDRIEU (for herself, Mr. BREAUX, Mr. LEVIN, and Mr. CAMPBELL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JULY 11, 2003

Reported by Mr. DOMENICI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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## A BILL

To authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 ~~This Act may be cited as the “Buffalo Soldier Com-~~  
5 ~~memoration Act of 2003”.~~

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the 9th and 10th Cavalry regiments and the  
4 24th and 25th Infantry regiments, comprised of Af-  
5 rican-American soldiers referred to as “Buffalo Sol-  
6 diers”, performed outstanding service to the United  
7 States during—

8 (A) the Indian Wars;

9 (B) the Spanish-American War;

10 (C) the Philippine Insurrection; and

11 (D) the raids against Poncho Villa;

12 (2) in recognition of the contributions of the  
13 Buffalo Soldiers to the defense of the United States,  
14 soldiers in the 9th and 10th Cavalry regiments were  
15 awarded 20 individual Congressional Medals of  
16 Honor;

17 (3) the Buffalo Soldiers established a rich tradi-  
18 tion of professional African-American soldiers in the  
19 United States Army by granting a commission—

20 (A) in the 10th Cavalry regiment, to the  
21 first African-American professional officer; and

22 (B) in the 9th Cavalry regiment, to the  
23 first African-American graduates of West Point;

24 (4) while the Buffalo Soldiers served the United  
25 States with bravery and fortitude in the harshest en-  
26 vironments and under the most difficult conditions;

1 the service of the Buffalo Soldiers has not been suf-  
 2 ficiently memorialized;

3 (5) the Buffalo Soldiers remain emblems of the  
 4 work of free men in defense of the United States  
 5 and should be recognized for their contributions; and

6 (6) because 2 of the 4 African-American regi-  
 7 ments were organized in the State of Louisiana and  
 8 were initially comprised of recruits from the city of  
 9 New Orleans, the State of Louisiana is an appro-  
 10 priate place to establish a memorial to recognize the  
 11 contributions of the Buffalo Soldiers.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) **BUFFALO SOLDIER.**—The term “Buffalo  
 15 Soldier” means an African-American soldier that  
 16 served in—

17 (A) the 9th Cavalry regiment;

18 (B) the 10th Cavalry regiment;

19 (C) the 24th infantry regiment; or

20 (D) the 25th infantry regiment.

21 (2) **CITY.**—The term “city” means the city of  
 22 New Orleans, Louisiana.

23 (3) **COMMISSION.**—The term “Commission”  
 24 means the American Battle Monuments Commission.

1           (4) FUND.—The term “Fund” means the Buf-  
 2       falo Soldier Memorial Fund established by section  
 3       5(a).

4           (5) MEMORIAL.—The term “memorial” means  
 5       the memorial established under section 4(a).

6           (6) MUSEUM.—The term “museum” means the  
 7       Louisiana State Museum in the State.

8           (7) STATE.—The term “State” means the State  
 9       of Louisiana.

10 **SEC. 4. ESTABLISHMENT OF MEMORIAL.**

11       (a) IN GENERAL.—The Commission may establish a  
 12       memorial to honor the Buffalo Soldiers—

13           (1) on Federal land in the city or its environs;  
 14       or

15           (2) on land donated by the city or the State.

16       (b) CONTRIBUTIONS.—The Commission shall solicit  
 17       and accept contributions sufficient for the construction  
 18       and maintenance of the memorial.

19       (c) MAIL.—The Commission shall be considered to  
 20       qualify for the rates of postage currently in effect under  
 21       former section 4452 of title 39, United States Code, for  
 22       third-class mail matter mailed by a qualified nonprofit or-  
 23       ganization with respect to official mail sent in carrying  
 24       out this section.

25       (d) VOLUNTARY SERVICES.—

1           (1) IN GENERAL.—Notwithstanding section  
2           1342 of title 31, United States Code, the Commis-  
3           sion may accept from any person voluntary services  
4           provided in furtherance of fundraising activities of  
5           the Commission relating to the memorial.

6           (2) TREATMENT OF VOLUNTEERS.—

7           (A) IN GENERAL.—Subject to subpara-  
8           graph (B), a person that provides voluntary  
9           services under this subsection—

10                   (i) shall be considered to be a Federal  
11                   employee for the purposes of chapter 81 of  
12                   title 5 and chapter 171 of title 28, United  
13                   States Code; but

14                   (ii) shall not be considered to be a  
15                   Federal employee for any other purpose by  
16                   reason of the provision of the voluntary  
17                   service.

18           (B) CERTAIN RESPONSIBILITIES.—A per-  
19           son described in subparagraph (A) that is as-  
20           signed responsibility for the handling of funds  
21           or the carrying out of a Federal function shall  
22           be subject to—

23                   (i) section 208 of title 18, United  
24                   States Code; and

1                   (ii) part 2635 of title 5, Code of Fed-  
 2                   eral Regulations (or any successor regula-  
 3                   tion).

4           (3) REIMBURSEMENT.—The Commission  
 5           may—

6                   (A) identify types of incidental expenses in-  
 7                   curred by a person providing voluntary services  
 8                   under this subsection for which the person may  
 9                   be reimbursed; and

10                   (B) provide for reimbursement of those ex-  
 11                   penses.

12           (4) NO EFFECT ON FEDERAL EMPLOYEES.—  
 13           Nothing in this subsection—

14                   (A) requires any Federal employee to work  
 15                   without compensation; or

16                   (B) permits the use of volunteer services to  
 17                   displace or replace any services provided by a  
 18                   Federal employee.

19           (e) TREATMENT OF CERTAIN CONTRACTS.—A con-  
 20           tract entered into by the Commission for the design or  
 21           construction of the memorial shall not be considered to  
 22           be a funding agreement for the purpose of chapter 18 of  
 23           title 35, United States Code.

24           (f) LEGAL REPRESENTATION.—

1           (1) IN GENERAL.—The Attorney General shall  
2           provide the Commission such legal representation as  
3           the Commission requires to carry out subsection (e).

4           (2) PATENT AND TRADEMARK REPRESENTA-  
5           TION.—The Secretary of Defense shall provide rep-  
6           resentation for the Commission in any administra-  
7           tive proceeding before the Patent and Trademark  
8           Office and Copyright Office.

9           (g) IRREVOCABILITY OF TRANSFERS OF COPYRIGHTS  
10          TO COMMISSION.—Section 203 of title 17, United States  
11          Code, shall not apply to any copyright transferred to the  
12          Commission.

13          (h) PARTICIPATION IN COMBINED FEDERAL CAM-  
14          PAIGN.—The Director of the Office of Personnel Manage-  
15          ment shall include the Commission on the list of agencies  
16          eligible for participation in each Combined Federal Cam-  
17          paign carried out by the Executive Branch under Execu-  
18          tive Order No. 10927 (March 18, 1961), until such time  
19          as the Commission certifies to the Director of the Office  
20          of Personnel Management that fundraising for the memo-  
21          rial is concluded.

22          **SEC. 5. MEMORIAL FUND.**

23          (a) ESTABLISHMENT.—There is established in the  
24          Treasury a fund to be used by the Commission to pay the

1 expenses incurred in establishing the memorial, to be  
2 known as the “Buffalo Soldier Memorial Fund”.

3 (b) DEPOSITS IN THE FUND.—The Commission shall  
4 deposit in the Fund—

5 (1) amounts accepted by the Commission under  
6 section 4(b); and

7 (2) interest and proceeds credited to the Fund  
8 under subsection (d).

9 (c) INVESTMENT OF AMOUNTS.—The Secretary of  
10 the Treasury shall invest such portion of the Fund that  
11 is not, in the judgment of the Chairman of the Commis-  
12 sion, required to meet current withdrawals. Investments  
13 may be made only in—

14 (1) an interest-bearing obligation of the United  
15 States; or

16 (2) an obligation guaranteed as to principal and  
17 interest by the United States that the Chairman of  
18 the Commission determines has a maturity suitable  
19 for the Fund.

20 (d) CREDITS TO FUND.—The interest on, and pro-  
21 ceeds from sale or redemption of, obligations held in the  
22 Fund shall be credited to the Fund.

23 (e) USE OF FUND.—Amounts in the Fund shall be  
24 available—

25 (1) to the Commission—



1           (A) to pay expenses incurred in estab-  
2           lishing the memorial; and

3           (B) to secure, obtain, register, enforce,  
4           protect, and license any mark, copyright, or  
5           patent that is owned by, assigned to, licensed to  
6           the Commission to aid or facilitate the con-  
7           struction of the memorial; and

8           (2) to the Commission, or to another agency or  
9           entity to which the amounts are transferred under  
10          subsection (f)—

11           (A) for the maintenance and upkeep of the  
12          memorial; and

13           (B) after establishment of the memorial,  
14          for such other expenses relating to the memo-  
15          rial as the Commission, agency, or entity con-  
16          siders to be necessary.

17          (f) TRANSFER OF AMOUNTS IN FUND.—Amounts in  
18          the Fund may be transferred by the Commission to an  
19          agency or entity to which title to the memorial is trans-  
20          ferred under section 6.

21          **SEC. 6. TRANSFER OF POSSESSION AND AUTHORITY FOR**  
22                                  **MEMORIAL.**

23          On or after the date that is 1 year after the date  
24          of establishment of the memorial, the Commission may  
25          transfer any amounts remaining in the Fund, and title

1 to and responsibility for future operation and maintenance  
 2 of the memorial, to, at the option of the Commission—

3           (1) the National Park Service; or

4           (2) another appropriate governmental agency or  
 5 other entity (such as a State or local government  
 6 agency, or a nonprofit corporation that applies to  
 7 the Commission to take title to the memorial) that  
 8 is an organization described in section 170(e) of the  
 9 Internal Revenue Code of 1986.

10 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

11       There are authorized to be appropriated such sums  
 12 as are necessary to carry out this Act.

13 **SECTION 1. SHORT TITLE.**

14       *This Act may be cited as the “Buffalo Soldiers com-  
 15 memoration Act of 2003”.*

16 **SEC. 2. ESTABLISHMENT OF BUFFALO SOLDIERS MEMO-  
 17 RIAL.**

18       (a) *AUTHORIZATION.*—*The American Battle Monu-  
 19 ments Commission is authorized to establish a memorial  
 20 to honor the Buffalo Soldiers in or around the City of New  
 21 Orleans on land donated for such purpose or on Federal  
 22 land with the consent of the appropriate land manager.*

23       (b) *CONTRIBUTIONS.*—*The Commission shall solicit  
 24 and accept contributions for the construction and mainte-  
 25 nance of the memorial.*

1       (c) *COOPERATIVE AGREEMENTS.*—*The Commission*  
2 *may enter into a cooperative agreement with a private or*  
3 *public entity for the purpose of fundraising for the construc-*  
4 *tion and maintenance of the memorial.*

5       (d) *MAINTENANCE AGREEMENT.*—*Prior to beginning*  
6 *construction of the memorial, the Commission shall enter*  
7 *into an agreement with an appropriate public or private*  
8 *entity to provide for the permanent maintenance of the me-*  
9 *morial and shall have sufficient funds, or assurance that*  
10 *it will receive sufficient funds, to complete the memorial.*

11 **SEC. 3. BUFFALO SOLDIERS MEMORIAL ACCOUNT.**

12       (a) *ESTABLISHMENT.*—*The Commission shall main-*  
13 *tain an escrow account (“account”) to pay expenses in-*  
14 *curred in constructing the memorial.*

15       (b) *DEPOSITS INTO THE ACCOUNT.*—*The Commission*  
16 *shall deposit into the account any principal and interest*  
17 *by the United States that the Chairman determines has a*  
18 *suitable maturity.*

19       (c) *USE OF ACCOUNT.*—*Amounts in the account, in-*  
20 *cluding proceeds of any investments, may be used to pay*  
21 *expenses incurred in establishing the memorial. After con-*  
22 *struction of the memorial amounts in the account shall be*  
23 *transferred by the Commission to the entity providing for*  
24 *permanent maintenance of the memorial under such terms*

1 *and conditions as the Commission determines will ensure*  
2 *the proper use and accounting of the amounts.*

3 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

4 *There are authorized to be appropriated such sums as*  
5 *may be necessary to carry out this Act.*



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