

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

JULY 17, 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

[To accompany H.R. 4115]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4115) to authorize appropriations for the United States Holocaust Memorial Museum, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

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

SECTION 1. AMENDMENT.

Chapter 23 of title 36, United States Code, is amended to read as follows:

“CHAPTER 23—UNITED STATES HOLOCAUST MEMORIAL MUSEUM

- “Sec. 2301. Establishment of the United States Holocaust Memorial Museum; functions.
- “Sec. 2302. Functions of the Council; membership.
- “Sec. 2303. Compensation; travel expenses; full-time officers or employees of United States or Members of Congress.
- “Sec. 2304. Administrative provisions.
- “Sec. 2305. Staff.
- “Sec. 2306. Insurance for museum.
- “Sec. 2307. Gifts, bequests, and devises of property; tax treatment.
- “Sec. 2308. Annual report.
- “Sec. 2309. Audit of financial transactions.
- “Sec. 2310. Authorization of appropriations.

“SEC. 2301. ESTABLISHMENT OF THE UNITED STATES HOLOCAUST MEMORIAL MUSEUM; FUNCTIONS.

“The United States Holocaust Memorial Museum (hereinafter in this chapter referred to as the ‘Museum’) is an independent establishment of the United State Government. The Museum shall—

“(1) provide for appropriate ways for the Nation to commemorate the Days of Remembrance, as an annual, national, civic commemoration of the Holocaust, and encourage and sponsor appropriate observances of such Days of Remembrance throughout the United States;

“(2) operate and maintain a permanent living memorial museum to the victims of the Holocaust, in cooperation with the Secretary of the Interior and other Federal agencies as provided in section 2306 of this title; and

“(3) carry out the recommendations of the President’s Commission on the Holocaust in its report to the President of September 27, 1979, to the extent such recommendations are not otherwise provided for in this chapter.

“SEC. 2302. FUNCTIONS OF THE COUNCIL; MEMBERSHIP.

“(a) **IN GENERAL.**—The United States Holocaust Memorial Council (hereinafter in this chapter referred to as the ‘Council’) shall be the board of trustees of the Museum and shall have overall governance responsibility for the Museum, including policy guidance and strategic direction, general oversight of Museum operations, and fiduciary responsibility. The Council shall establish an Executive Committee which shall exercise ongoing governance responsibility when the Council is not in session.

“(b) **COMPOSITION OF COUNCIL; APPOINTMENT; VACANCIES.**—The Council shall consist of 65 voting members appointed (except as otherwise provided in this section) by the President and the following ex officio nonvoting members:

“(1) 1 appointed by the Secretary of the Interior.

“(2) 1 appointed by the Secretary of State.

“(3) 1 appointed by the Secretary of Education.

Of the 65 voting members, 5 shall be appointed by the Speaker of the United States House of Representatives from among Members of the United States House of Representatives and 5 shall be appointed by the President pro tempore of the United States Senate upon the recommendation of the majority and minority leaders from among Members of the United States Senate. Any vacancy in the Council shall be filled in the same manner as the original appointment was made.

“(c) **TERM OF OFFICE.**—

“(1) Except as otherwise provided in this subsection, Council members shall serve for 5-year terms.

“(2) The terms of the 5 Members of the United States House of Representatives and the 5 Members of the United States Senate appointed during any term of Congress shall expire at the end of such term of Congress.

“(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member, other than a Member of Congress appointed by the Speaker of the United States House of Representatives or the President pro tempore of the United States Senate, may serve after the expiration of his term until his successor has taken office.

“(d) **CHAIRPERSON AND VICE CHAIRPERSON; TERM OF OFFICE.**—The Chairperson and Vice Chairperson of the Council shall be appointed by the President from among the members of the Council and such Chairperson and Vice Chairperson shall each serve for terms of 5 years.

“(e) **REAPPOINTMENT.**—Members whose terms expire may be reappointed, and the Chairperson and Vice Chairperson may be reappointed to those offices.

“(f) **BYLAWS.**—The Council shall adopt bylaws to carry out its functions under this chapter. The Chairperson may waive a bylaw when the Chairperson decides that waiver is in the best interest of the Council. Immediately after waiving a bylaw, the Chairperson shall send written notice of the waiver to every voting member of the Council. The waiver becomes final 30 days after the notice is sent unless a majority of Council members disagree in writing before the end of the 30-day period.

“(g) **QUORUM.**—One-third of the members of the Council shall constitute a quorum, and any vacancy in the Council shall not affect its powers to function.

“(h) **ASSOCIATED COMMITTEES.**—Subject to appointment by the Chairperson, an individual who is not a member of the Council may be designated as a member of a committee associated with the Council. Such an individual shall serve without cost to the Federal Government.

“SEC. 2303. COMPENSATION; TRAVEL EXPENSES; FULL-TIME OFFICERS OR EMPLOYEES OF UNITED STATES OR MEMBERS OF CONGRESS.

“(a) **IN GENERAL.**—Except as provided in subsection (b) of this section, members of the Council are each authorized to be paid the daily equivalent of the annual rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5, for each day (including travel time) during which they are engaged in the actual performance of duties of the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5.

“(b) EXCEPTION.—Members of the Council who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay by reason of their service on the Council.

“SEC. 2304. ADMINISTRATIVE PROVISIONS.

“(a) EXPERTS AND CONSULTANTS.—The Museum may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, at rates not to exceed the daily equivalent of the annual rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5.

“(b) AUTHORITY TO CONTRACT.—The Museum may, in accordance with applicable law, enter into contracts and other arrangements with public agencies and with private organizations and persons and may make such payments as may be necessary to carry out its functions under this chapter.

“(c) ASSISTANCE FROM OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The Secretary of the Smithsonian Institution, the Library of Congress, and the heads of all executive branch departments, agencies, and establishments of the United States may assist the Museum in the performance of its functions under this chapter.

“(d) ADMINISTRATIVE SERVICES AND SUPPORT.—The Secretary of the Interior may provide administrative services and support to the Museum on a reimbursable basis.

“SEC. 2305. STAFF.

“(a) ESTABLISHMENT OF THE MUSEUM DIRECTOR AS CHIEF EXECUTIVE OFFICER.—There shall be a director of the Museum (hereinafter in this chapter referred to as the ‘Director’) who shall serve as chief executive officer of the Museum and exercise day-to-day authority for the Museum. The Director shall be appointed by the Chairperson of the Council, subject to confirmation of the Council. The Director may be paid with nonappropriated funds, and, if paid with appropriated funds shall be paid the rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5. The Director shall report to the Council and its Executive Committee through the Chairperson. The Director shall serve at the pleasure of the Council.

“(b) APPOINTMENT OF EMPLOYEES.—The Director shall have authority to—

“(1) appoint employees in the competitive service subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and general schedule pay rates;

“(2) appoint and fix the compensation (at a rate not to exceed the rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5) of up to 3 employees notwithstanding any other provision of law; and

“(3) implement the decisions and strategic plan for the Museum, as approved by the Council, and perform such other functions as may be assigned from time to time by the Council, the Executive Committee of the Council, or the Chairperson of the Council, consistent with this legislation.

“SEC. 2306. INSURANCE FOR MUSEUM.

“The Museum shall maintain insurance on the memorial museum to cover such risks, in such amount, and containing such terms and conditions as the Museum deems necessary.

“SEC. 2307. GIFTS, BEQUESTS, AND DEVICES OF PROPERTY; TAX TREATMENT.

“The Museum may solicit, and the Museum may accept, hold, administer, invest, and use gifts, bequests, and devises of property, both real and personal, and all revenues received or generated by the Museum to aid or facilitate the operation and maintenance of the memorial museum. Property may be accepted pursuant to this section, and the property and the proceeds thereof used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. Funds donated to and accepted by the Museum pursuant to this section or otherwise received or generated by the Museum are not to be regarded as appropriated funds and are not subject to any requirements or restrictions applicable to appropriated funds. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

“SEC. 2308. ANNUAL REPORT.

“The Director shall transmit to Congress an annual report on the Director’s stewardship of the authority to operate and maintain the memorial museum. Such report shall include the following:

“(1) An accounting of all financial transactions involving donated funds.

“(2) A description of the extent to which the objectives of this chapter are being met.

“(3) An examination of future major endeavors, initiatives, programs, or activities that the Museum proposes to undertake to better fulfill the objectives of this chapter.

“(4) An examination of the Federal role in the funding of the Museum and its activities, and any changes that may be warranted.

“SEC. 2309. AUDIT OF FINANCIAL TRANSACTIONS.

“Financial transactions of the Museum, including those involving donated funds, shall be audited by the Comptroller General as requested by Congress, in accordance with generally accepted auditing standards. In conducting any audit pursuant to this section, appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files and other papers, items or property in use by the Museum, as necessary to facilitate such audit, and such representatives shall be afforded full facilities for verifying transactions with the balances.

“SEC. 2310. AUTHORIZATION OF APPROPRIATIONS.

“To carry out the purposes of this chapter, there are authorized to be appropriated such sums as may be necessary. Notwithstanding any other provision of law, none of the funds authorized to carry out this chapter may be made available for construction. Authority to enter into contracts and to make payments under this chapter, using funds authorized to be appropriated under this chapter, shall be effective only to the extent, and in such amounts, as provided in advance in appropriations Acts.”.

PURPOSE OF THE BILL

The purpose of H.R. 4115 is to authorize appropriations for the United States Holocaust Memorial Museum, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

On November 1, 1978, then President Jimmy Carter established the President’s Commission on the Holocaust charged with the responsibility to submit a report to the President on the establishment and maintenance of an appropriate memorial to commemorate victims of the Holocaust. The final report called for memorial/museum as a federal institution serving the public, scholars, and other institutions. In 1980, the Congress passed Public Law 96–388 which established the U.S. Holocaust Memorial Council and, among other things, required it to plan, construct, and operate a permanent living memorial museum to the victims of the Holocaust in cooperation with the Secretary of the Interior and other federal agencies. In April 1993 the Holocaust Memorial Museum opened and since then has become one the most visited sites in Washington, D.C., hosting approximately 12 million visitors annually.

At the request of the House of Representatives Subcommittee on Interior, the National Academy of Public Administration prepared a report in 1999 to assess the Museum and make recommendations to improve Museum governance, management, and administration. H.R. 4115 implements many of these recommendations.

H.R. 4115 establishes the Holocaust Memorial Museum, rather than the Council, as the institution for the primary responsibility for the Museum’s operation. The Holocaust Memorial Council, however, would still function as the governing body in serving as the board of trustees. The Council is currently composed of 65 voting members appointed by the President, the Speaker of the House, and the President pro tempore of the Senate. Three members of the Council are selected by the President’s cabinet. Among the current council members are five Members of the House, including Congressmen Chris Cannon (R-UT), Benjamin A. Gilman (R-NY), Mar-

tin Frost (D-TX), Tom Lantos (D-CA), and Steven C. LaTourette (R-OH), and five Senators.

H.R. 4115 reauthorizes and establishes the United States Holocaust Memorial Museum as an independent entity of the federal government with the responsibility of maintaining and operating the Museum. This bill assures the continued presence and function of the Council by establishing it as the board of trustees of the Museum with overall governance responsibility for the Museum. This bill authorizes necessary appropriations to more effectively operate and maintain the Museum; however, none of the funds may be used for construction purposes.

Federal appropriations have averaged around \$31 million annually for the last five years. The budget request for Fiscal Year 2001 is \$34.6 million. Donated funds have averaged approximately \$21 million for the last three years with expected donations of \$21.4 million for 2001.

COMMITTEE ACTION

H.R. 4115 was introduced by Congressman Chris Cannon (R-UT) on March 29, 2000. It was referred to the Committee on Resources and within the Committee the Subcommittee on National Parks and Public Lands. On May 4, 2000, a hearing was held by the Subcommittee. On May 18, 2000, the Subcommittee met to consider the bill. An amendment was offered by Congressman Cannon containing technical corrections. 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 June 7, 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 result in a “negligible” increase in direct spending because the Museum would be allowed to spend certain receipts.

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 recommendations 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, June 15, 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. 4115, a bill to authorize appropriations for the United States Holocaust Memorial Museum, and for other purposes.

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

Sincerely,

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

Enclosure.

H.R. 4115—A bill to authorize appropriations for the United States Holocaust Memorial Museum, and for other purposes

Summary: H.R. 4115 would move day-to-day responsibility for maintaining and operating the United States Holocaust Memorial Museum from the Holocaust Memorial Council to the museum, with the council serving as the museum’s board of trustees. In addition, the bill would authorize the appropriation of such sums as are necessary each year to the museum. The museum received an appropriation of \$33.3 million in 2000. CBO estimates that implementing H.R. 4115 would cost \$168 million over the 2001–2005 period, assuming appropriation of the necessary amounts.

Because the bill would allow the museum to spend certain receipts, pay-as-you-go procedures would apply. Based on information from the museum, CBO estimates the annual increase in direct spending from enacting H.R. 4115 would be negligible. H.R. 4115 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4115 is shown in the following table. This estimate assumes that the amounts authorized will be appropriated

and that spending will occur at historical rates. The costs of this legislation fall within budget function 800 (general government).

| | By fiscal year, in millions of dollars— | | | | | |
|---|---|------|------|------|------|------|
| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
| SPENDING SUBJECT TO APPROPRIATION ^{1, 2} | | | | | | |
| Museum spending under current law: | | | | | | |
| Budget authority ³ | 33 | 0 | 0 | 0 | 0 | 0 |
| Estimated outlays | 33 | 10 | 2 | 0 | 0 | 0 |
| Proposed changes: | | | | | | |
| Estimated authorization level | 0 | 34 | 35 | 36 | 37 | 38 |
| Estimated outlays | 0 | 24 | 33 | 36 | 37 | 38 |
| Museum spending under H.R. 4115: | | | | | | |
| Estimated authorization level ³ | 33 | 34 | 35 | 36 | 37 | 38 |
| Estimated outlays | 33 | 34 | 35 | 36 | 37 | 38 |

¹ By allowing the museum to retain and spend certain receipts, the bill also would affect direct spending. CBO estimates that the increase in such spending would be negligible each year.

² The table shows CBO baseline projections of spending for the museum with annual adjustments for anticipated inflation. CBO estimates that spending for the museum would cost about \$153 million over the 2001–2005 period without such adjustments, reflecting an authorization level of \$33 million each year.

³ The 2000 level is the amount appropriated for that year.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act specifies pay-as-you-go procedures for legislation affecting direct spending and receipts. These procedures would apply to H.R. 4115 because it would allow the museum to retain and spend certain receipts, such as the fee it charges for photocopying noncopyrighted materials. However, based on information from the museum, CBO estimates that the annual increase in such spending would be negligible.

Intergovernmental and private-sector impact: H.R. 4115 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: John R. Righter.

Estimate 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 any 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):

CHAPTER 23 OF TITLE 36, UNITED STATES CODE

[CHAPTER 23—UNITED STATES HOLOCAUST MEMORIAL COUNCIL

[Sec.

[2301. Establishment and purposes.

[2302. Membership.

- 【2303. Executive Director.
- 【2304. Gifts, bequests, and devises of property.
- 【2305. Memorial museum.
- 【2306. Audits.
- 【2307. Administrative.
- 【2308. Annual report.
- 【2309. Authorization of appropriations.

【§ 2301. Establishment and purposes

【The United States Holocaust Memorial Council is an independent establishment of the United States Government. The Council shall—

【(1) provide for appropriate ways for the Nation to commemorate the Days of Remembrance as an annual, national, civic commemoration of the Holocaust;

【(2) encourage and sponsor appropriate observances of the Days of Remembrance throughout the United States;

【(3) plan, construct, and operate a permanent living memorial museum to the victims of the Holocaust in cooperation with the Secretary of the Interior and other departments, agencies, and instrumentalities of the United States Government as provided in section 2305 of this title; and

【(4) develop a plan for carrying out the recommendations of the President's Commission on the Holocaust in its report to the President of September 27, 1979, to the extent the recommendations are not otherwise provided for in this chapter.

【§ 2302. Membership

【(a) COMPOSITION.—(1) The United States Holocaust Memorial Council consists of 65 voting members and the following ex officio nonvoting members:

【(A) one appointed by the Secretary of the Interior.

【(B) one appointed by the Secretary of State.

【(C) one appointed by the Secretary of Education.

【(2) Of the 65 voting members—

【(A) the President of the United States appoints 55;

【(B) the Speaker of the House of Representatives appoints five from among members of the House of Representatives; and

【(C) the President pro tempore of the Senate appoints five, on the recommendation of the majority and minority leaders, from among members of the Senate.

【(b) TERMS OF OFFICE.—(1) Except as provided in this subsection, Council members serve for terms of 5 years.

【(2) The terms of the five members of the House of Representatives and the five members of the Senate appointed during a term of Congress expire at the end of that term of Congress.

【(c) CHAIRPERSON AND VICE CHAIRPERSON.—The President of the United States shall appoint the Chairperson and Vice Chairperson of the Council from among the members of the Council. The Chairperson and Vice Chairperson serve for terms of 5 years.

【(d) VACANCIES.—(1) A vacancy on the Council shall be filled in the same manner as the original appointment was made.

【(2) A member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term. A member, except a Member of Congress appointed by the Speaker of the

House of Representatives or the President pro tempore of the Senate, may serve after the expiration of a term until a successor takes office.

[(3) The President of the United States fills a vacancy in the offices of the Chairperson and Vice Chairperson.

[(e) REAPPOINTMENT.—A member whose term expires may be reappointed. The Chairperson and Vice Chairperson may be reappointed to those offices.

[(f) PAY AND EXPENSES.—(1) Except as provided in paragraph (2) of this subsection, members of the Council may be paid the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5 for each day (including traveltime) during which they perform duties of the Council. A member is entitled to travel expenses, including a per diem allowance, as provided under section 5703 of title 5, United States Code.

[(2) Members who are full-time officers or employees of the United States Government or Members of Congress may not receive additional pay because of their service on the Council.

[(g) ASSOCIATED COMMITTEES.—Subject to appointment by the Chairperson, an individual who is not a member of the Council may be designated as a member of a committee associated with the Council. The individual serves without cost to the Government.

[(§ 2303. Executive Director

[(a) APPOINTMENT AND PAY.—The Chairperson of the United States Holocaust Memorial Council shall appoint an Executive Director, subject to confirmation by the Council. The Executive Director may be paid with nonappropriated funds. However, if the Executive Director is paid with appropriated funds, the rate of pay shall be a rate that is not more than the maximum rate of basic pay payable under section 5376 of title 5, United States Code. The Executive Director serves at the pleasure of the Council.

[(b) DUTIES AND POWERS.—The Executive Director may—

[(1) appoint employees in the competitive service subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code;

[(2) appoint and fix the compensation (at a rate that is not more than the maximum rate of basic pay payable under section 5376 of title 5, United States Code) of not more than three employees, notwithstanding any other law; and

[(3) implement decisions of the Council, in the manner the Council directs, and carry out other functions the Council, the Executive Committee of the Council, or the Chairperson assigns.

[(§ 2304. Gifts, bequests, and devises of property

[(a) GENERAL.—The United States Holocaust Memorial Council may solicit, accept, own, administer, invest, and use gifts, bequests, and devises of property to aid or facilitate the construction, maintenance, and operation of the memorial museum. The property and the proceeds of the property shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating the property. Funds donated to and accepted by the Council under this section are not considered appropriated funds and are not sub-

ject to any requirements or restrictions applicable to appropriated funds.

[(b) TAX TREATMENT.—For the purposes of Federal income, estate, and gift taxes, property accepted under this section is deemed to be a gift, bequest, or devise to the United States Government.

【§ 2305. Memorial museum

[(a) TRANSFER OR PURCHASE OF REAL PROPERTY IN THE DISTRICT OF COLUMBIA.—For the purpose of establishing the memorial museum, and with the approval of the Secretary of the Interior in consultation with the Commission of Fine Arts and the National Capital Planning Commission—

[(1) a department, agency, or instrumentality of the United States Government may transfer to the administrative jurisdiction of the United States Holocaust Memorial Council, any real property in the District of Columbia that is under the administrative jurisdiction of the department, agency, or instrumentality and that the Council considers suitable for the memorial museum; and

[(2) the Council may purchase, with the consent of the owner, any real property within the District of Columbia that the Council considers suitable for the memorial museum.

[(b) ARCHITECTURAL DESIGN APPROVAL.—The architectural design for the memorial museum is subject to the approval of the Secretary of the Interior, in consultation with the Commission of Fine Arts and the National Capital Planning Commission.

[(c) INSURANCE.—The Council shall maintain insurance on the memorial museum to cover the risks, in the amount, and containing the terms the Council considers necessary.

【§ 2306. Audits

【When requested by Congress, the Comptroller General shall audit financial transactions of the United States Holocaust Memorial Council, including those involving donated funds, under generally accepted auditing standards. The Council shall make available for an audit under this section all records, items, or property used by the Council that are necessary for the audit. The Council shall provide facilities for verifying transactions with the balances.

【§ 2307. Administrative

[(a) BYLAWS.—(1) The United States Holocaust Memorial Council shall adopt bylaws to carry out its functions under this chapter.

[(2) The Chairperson of the Council may waive a bylaw when the Chairperson decides the waiver is in the best interest of the Council. Immediately after waiving a bylaw, the Chairperson shall send written notice to every voting member of the Council. The waiver becomes final 30 days after the notice is sent unless a majority of Council members disagrees in writing before the end of the 30-day period.

[(b) QUORUM.—One-third of the members of the Council is a quorum. A vacancy in the Council does not affect its power to function.

[(c) EXPERTS AND CONSULTANTS.—The Council may procure the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code, at rates that are not

more than the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

[(d) CONTRACT AUTHORITY.—In accordance with applicable law, the Council may make contracts or other arrangements with public agencies or authorities and with private organizations and persons and may make payments necessary to carry out its functions under this chapter.

[(e) ASSISTANCE FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS, AGENCIES, AND INSTRUMENTALITIES.—The Secretary of the Smithsonian Institution, the Library of Congress, and all departments, agencies, and instrumentalities in the executive branch of the United States Government may assist the Council in carrying out its functions under this chapter.

[(f) ADMINISTRATIVE SERVICES AND SUPPORT.—The Secretary of the Interior may provide administrative services and support to the Council on a reimbursable basis.

[§ 2308. Annual report

[Each year, the Executive Director of the United States Holocaust Memorial Council shall submit to Congress a report on the Executive Director's stewardship of the authority to construct, maintain, and operate the memorial museum, including an accounting of all financial transactions involving donated funds.

[§ 2309. Authorization of appropriations

[(a) GENERAL.—Amounts necessary to carry out this chapter are authorized to be appropriated for each of the fiscal years ending September 30, 1997–2000. Notwithstanding any other law, necessary amounts are authorized to be appropriated to the Council to obtain, from a private insurance carrier, insurance against loss in connection with the memorial museum and related property and exhibits.

[(b) USE OF AMOUNTS FOR CONSTRUCTION BARRED.—Amounts authorized under this chapter may not be used for construction.

[(c) PRIOR AUTHORITY REQUIRED.—Authority to make contracts and to make payments under this chapter, using amounts authorized to be appropriated under this section, are effective only to the extent, and in amounts, provided in advance in an appropriations law.]

CHAPTER 23—UNITED STATES HOLOCAUST MEMORIAL MUSEUM

Sec. 2301. Establishment of the United States Holocaust Memorial Museum; functions.

Sec. 2302. Functions of the Council; membership.

Sec. 2303. Compensation; travel expenses; full-time officers or employees of United States or Members of Congress.

Sec. 2304. Administrative provisions.

Sec. 2305. Staff.

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SEC. 2301. ESTABLISHMENT OF THE UNITED STATES HOLOCAUST MEMORIAL MUSEUM; FUNCTIONS.

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(2) operate and maintain a permanent living memorial museum to the victims of the Holocaust, in cooperation with the Secretary of the Interior and other Federal agencies as provided in section 2306 of this title; and

(3) carry out the recommendations of the President's Commission on the Holocaust in its report to the President of September 27, 1979, to the extent such recommendations are not otherwise provided for in this chapter.

SEC. 2302. FUNCTIONS OF THE COUNCIL; MEMBERSHIP.

(a) IN GENERAL.—The United States Holocaust Memorial Council (hereinafter in this chapter referred to as the "Council") shall be the board of trustees of the Museum and shall have overall governance responsibility for the Museum, including policy guidance and strategic direction, general oversight of Museum operations, and fiduciary responsibility. The Council shall establish an Executive Committee which shall exercise ongoing governance responsibility when the Council is not in session.

(b) COMPOSITION OF COUNCIL; APPOINTMENT; VACANCIES.—The Council shall consist of 65 voting members appointed (except as otherwise provided in this section) by the President and the following ex officio nonvoting members:

(1) 1 appointed by the Secretary of the Interior.

(2) 1 appointed by the Secretary of State.

(3) 1 appointed by the Secretary of Education.

Of the 65 voting members, 5 shall be appointed by the Speaker of the United States House of Representatives from among Members of the United States House of Representatives and 5 shall be appointed by the President pro tempore of the United States Senate upon the recommendation of the majority and minority leaders from among Members of the United States Senate. Any vacancy in the Council shall be filled in the same manner as the original appointment was made.

(c) TERM OF OFFICE.—

(1) Except as otherwise provided in this subsection, Council members shall serve for 5-year terms.

(2) The terms of the 5 Members of the United States House of Representatives and the 5 Members of the United States Senate appointed during any term of Congress shall expire at the end of such term of Congress.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member, other than a Member of Congress appointed by the Speaker of the United States House of Representatives or the President pro tempore of the United States Senate, may serve

after the expiration of his term until his successor has taken office.

(d) **CHAIRPERSON AND VICE CHAIRPERSON; TERM OF OFFICE.**—*The Chairperson and Vice Chairperson of the Council shall be appointed by the President from among the members of the Council and such Chairperson and Vice Chairperson shall each serve for terms of 5 years.*

(e) **REAPPOINTMENT.**—*Members whose terms expire may be reappointed, and the Chairperson and Vice Chairperson may be reappointed to those offices.*

(f) **BYLAWS.**—*The Council shall adopt bylaws to carry out its functions under this chapter. The Chairperson may waive a bylaw when the Chairperson decides that waiver is in the best interest of the Council. Immediately after waiving a bylaw, the Chairperson shall send written notice of the waiver to every voting member of the Council. The waiver becomes final 30 days after the notice is sent unless a majority of Council members disagree in writing before the end of the 30-day period.*

(g) **QUORUM.**—*One-third of the members of the Council shall constitute a quorum, and any vacancy in the Council shall not affect its powers to function.*

(h) **ASSOCIATED COMMITTEES.**—*Subject to appointment by the Chairperson, an individual who is not a member of the Council may be designated as a member of a committee associated with the Council. Such an individual shall serve without cost to the Federal Government.*

SEC. 2303. COMPENSATION; TRAVEL EXPENSES; FULL-TIME OFFICERS OR EMPLOYEES OF UNITED STATES OR MEMBERS OF CONGRESS.

(a) **IN GENERAL.**—*Except as provided in subsection (b) of this section, members of the Council are each authorized to be paid the daily equivalent of the annual rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5, for each day (including travel time) during which they are engaged in the actual performance of duties of the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5.*

(b) **EXCEPTION.**—*Members of the Council who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay by reason of their service on the Council.*

SEC. 2304. ADMINISTRATIVE PROVISIONS.

(a) **EXPERTS AND CONSULTANTS.**—*The Museum may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, at rates not to exceed the daily equivalent of the annual rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5.*

(b) **AUTHORITY TO CONTRACT.**—*The Museum may, in accordance with applicable law, enter into contracts and other arrangements with public agencies and with private organizations and persons and may make such payments as may be necessary to carry out its functions under this chapter.*

(c) *ASSISTANCE FROM OTHER FEDERAL DEPARTMENTS AND AGENCIES.*—The Secretary of the Smithsonian Institution, the Library of Congress, and the heads of all executive branch departments, agencies, and establishments of the United States may assist the Museum in the performance of its functions under this chapter.

(d) *ADMINISTRATIVE SERVICES AND SUPPORT.*—The Secretary of the Interior may provide administrative services and support to the Museum on a reimbursable basis.

SEC. 2305. STAFF.

(a) *ESTABLISHMENT OF THE MUSEUM DIRECTOR AS CHIEF EXECUTIVE OFFICER.*—There shall be a director of the Museum (hereinafter in this chapter referred to as the “Director”) who shall serve as chief executive officer of the Museum and exercise day-to-day authority for the Museum. The Director shall be appointed by the Chairperson of the Council, subject to confirmation of the Council. The Director may be paid with nonappropriated funds, and, if paid with appropriated funds shall be paid the rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5. The Director shall report to the Council and its Executive Committee through the Chairperson. The Director shall serve at the pleasure of the Council.

(b) *APPOINTMENT OF EMPLOYEES.*—The Director shall have authority to—

(1) appoint employees in the competitive service subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and general schedule pay rates;

(2) appoint and fix the compensation (at a rate not to exceed the rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5) of up to 3 employees notwithstanding any other provision of law; and

(3) implement the decisions and strategic plan for the Museum, as approved by the Council, and perform such other functions as may be assigned from time to time by the Council, the Executive Committee of the Council, or the Chairperson of the Council, consistent with this legislation.

SEC. 2306. INSURANCE FOR MUSEUM.

The Museum shall maintain insurance on the memorial museum to cover such risks, in such amount, and containing such terms and conditions as the Museum deems necessary.

SEC. 2307. GIFTS, BEQUESTS, AND DEVICES OF PROPERTY; TAX TREATMENT.

The Museum may solicit, and the Museum may accept, hold, administer, invest, and use gifts, bequests, and devises of property, both real and personal, and all revenues received or generated by the Museum to aid or facilitate the operation and maintenance of the memorial museum. Property may be accepted pursuant to this section, and the property and the proceeds thereof used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. Funds donated to and accepted by the Museum pursuant to this section or otherwise received or generated by the Museum are not to be regarded as appropriated funds and are not subject to any requirements or restrictions applicable to appropriated funds. For the purposes of Federal income, estate, and gift

taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

SEC. 2308. ANNUAL REPORT.

The Director shall transmit to Congress an annual report on the Director's stewardship of the authority to operate and maintain the memorial museum. Such report shall include the following:

(1) An accounting of all financial transactions involving donated funds.

(2) A description of the extent to which the objectives of this chapter are being met.

(3) An examination of future major endeavors, initiatives, programs, or activities that the Museum proposes to undertake to better fulfill the objectives of this chapter.

(4) An examination of the Federal role in the funding of the Museum and its activities, and any changes that may be warranted.

SEC. 2309. AUDIT OF FINANCIAL TRANSACTIONS.

Financial transactions of the Museum, including those involving donated funds, shall be audited by the Comptroller General as requested by Congress, in accordance with generally accepted auditing standards. In conducting any audit pursuant to this section, appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files and other papers, items or property in use by the Museum, as necessary to facilitate such audit, and such representatives shall be afforded full facilities for verifying transactions with the balances.

SEC. 2310. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this chapter, there are authorized to be appropriated such sums as may be necessary. Notwithstanding any other provision of law, none of the funds authorized to carry out this chapter may be made available for construction. Authority to enter into contracts and to make payments under this chapter, using funds authorized to be appropriated under this chapter, shall be effective only to the extent, and in such amounts, as provided in advance in appropriations Acts.