

PROVIDING FOR CERTAIN ADMINISTRATIVE AND SUPPORT SERVICES FOR THE DWIGHT D. EISENHOWER MEMORIAL COMMISSION, AND FOR OTHER PURPOSES

OCTOBER 22, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 2094]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2094) to provide for certain administrative and support services for the Dwight D. Eisenhower Memorial Commission, 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 all after the enacting clause and insert the following:

SECTION 1. DWIGHT D. EISENHOWER MEMORIAL COMMISSION.

Section 8162 of the Department of Defense Appropriations Act, 2000 (Public Law 106-79; 113 Stat. 1274) is amended—

(1) by striking subsection (j) and inserting the following:

“(j) POWERS OF THE COMMISSION.—

“(1) IN GENERAL.—

“(A) POWERS.—The Commission may—

“(i) make such expenditures for services and materials for the purpose of carrying out this section as the Commission considers advisable from funds appropriated or received as gifts for that purpose;

“(ii) solicit and accept contributions to be used in carrying out this section or to be used in connection with the construction or other expenses of the memorial;

“(iii) hold hearings and enter into contracts;

“(iv) enter into contracts for specialized or professional services as necessary to carry out this section; and

“(v) take such actions as are necessary to carry out this section.

“(B) SPECIALIZED OR PROFESSIONAL SERVICES.—Services under subparagraph (A)(iv) may be—

“(i) obtained without regard to the provisions of title 5, United States Code, including section 3109 of that title; and

“(ii) may be paid without regard to the provisions of title 5, United States Code, including chapter 51 and subchapter III of chapter 53 of that title.

“(2) GIFTS OF PROPERTY.—The Commission may accept gifts of real or personal property to be used in carrying out this section, including to be used in connection with the construction or other expenses of the memorial.

“(3) FEDERAL COOPERATION.—At the request of the Commission, a Federal department or agency may provide any information or other assistance to the Commission that the head of the Federal department or agency determines to be appropriate.

“(4) POWERS OF MEMBERS AND AGENTS.—

“(A) IN GENERAL.—If authorized by the Commission, any member or agent of the Commission may take any action that the Commission is authorized to take under this section.

“(B) ARCHITECT.—The Commission may appoint an architect as an agent of the Commission to—

“(i) represent the Commission on various governmental source selection and planning boards on the selection of the firms that will design and construct the memorial; and

“(ii) perform other duties as designated by the Chairperson of the Commission.

“(C) TREATMENT.—An authorized member or agent of the Commission (including an individual appointed under subparagraph (B)) providing services to the Commission shall be considered an employee of the Federal Government in the performance of those services for the purposes of chapter 171 of title 28, United States Code, relating to tort claims.

“(5) TRAVEL.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.”;

(2) by redesignating subsection (o) as subsection (q); and

(3) by adding after subsection (n) the following:

“(o) STAFF AND SUPPORT SERVICES.—

“(1) EXECUTIVE DIRECTOR.—There shall be an Executive Director appointed by the Commission to be paid at a rate not to exceed the maximum rate of basic pay for level IV of the Executive Schedule.

“(2) STAFF.—

“(A) IN GENERAL.—The staff of the Commission may be appointed and terminated without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title, relating to classification and General Schedule pay rates, except that an individual appointed under this paragraph may not receive pay in excess of the maximum rate of basic pay for GS-15 of the General Schedule.

“(B) SENIOR STAFF.—Notwithstanding subparagraph (A), not more than 3 staff employees of the Commission (in addition to the Executive Director) may be paid at a rate not to exceed the maximum rate of basic pay for level IV of the Executive Schedule

“(3) STAFF OF FEDERAL AGENCIES.—On request of the Commission, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission to carry out its duties under this section.

“(4) FEDERAL SUPPORT.—The Commission shall obtain administrative and support services from the General Services Administration on a reimbursable basis. The Commission may use all contracts, schedules, and acquisition vehicles allowed to external clients through the General Services Administration.

“(5) COOPERATIVE AGREEMENTS.—The Commission may enter into cooperative agreements with Federal agencies, State, local, tribal and international governments, and private interests and organizations which will further the goals and purposes of this section.

“(6) TEMPORARY, INTERMITTENT, AND PART-TIME SERVICES.—

“(A) IN GENERAL.—The Commission may obtain temporary, intermittent, and part-time services under section 3109 of title 5, United States Code, at rates not to exceed the maximum annual rate of basic pay payable under section 5376 of that title.

“(B) NON-APPLICABILITY TO CERTAIN SERVICES.—This paragraph shall not apply to services under subsection (j)(1)(A)(iv).
 “(7) VOLUNTEER SERVICES.—

“(A) IN GENERAL.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and utilize the services of volunteers serving without compensation.

“(B) REIMBURSEMENT.—The Commission may reimburse such volunteers for local travel and office supplies, and for other travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

“(C) LIABILITY.—

“(i) IN GENERAL.—Subject to clause (ii), a volunteer described in subparagraph (A) shall be considered to be a volunteer for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.).

“(ii) EXCEPTION.—Section 4(d) of the Volunteer Protection Act of 1997 (42 U.S.C. 14503(d)) shall not apply for purposes of a claim against a volunteer described in subparagraph (A).

“(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.”.

PURPOSE OF THE BILL

The purpose of H.R. 2094 is to provide for certain administrative and support services for the Dwight D. Eisenhower Memorial Commission.

BACKGROUND AND NEED FOR LEGISLATION

Public Law 106–79 of the 106th Congress established a federal commission to plan for a memorial honoring President Dwight D. Eisenhower. The 107th Congress specifically authorized the commission to establish the memorial pursuant to the Commemorative Works Act (40 U.S.C. 8901 et seq.) on land under the jurisdiction of the Secretary of the Interior in Washington D.C. or its surrounding area (Public Law 107–117). The 109th Congress authorized construction of the memorial at a specific site located within Area I on the National Mall (Public Law 109–220). The commission is now developing a design concept for the memorial. Once the design is approved, the commission will oversee construction of the memorial.

H.R. 2094 makes technical changes to the staff organization and administrative authority of the commission. According to the commission, these changes are necessitated by the commission’s evolving responsibilities as the memorial planning stage ends and the construction phase begins.

COMMITTEE ACTION

H.R. 2094 was introduced on May 1, 2007 by Representative Dennis Moore (D–KS). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. On September 27, 2007, the Subcommittee met to hold a hearing on the bill. On October 10, the Subcommittee was discharged from further consideration of the bill and the full Natural Resources Committee met to consider the bill. Representative Grijalva (D–AZ) offered an amendment in the nature of a substitute making technical changes to the bill as introduced. The Grijalva substitute was adopted by unanimous consent. H.R. 2094, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Dwight D. Eisenhower Memorial Commission

Section 1 amends the Department of Defense Appropriations Act of 2000 (Public Law 106–76) to alter the administrative authorities granted to the Dwight D. Eisenhower Memorial Commission. Among the authorities amended are the Commission’s ability to hire and compensate temporary staff, solicit and accept donations, accept technical and staff assistance from other federal agencies and hire and compensate official agents. This section also clarifies the Commission’s relationship with its volunteers and the liability provisions governing that relationship. Finally, Section 1 authorizes such sums as are necessary to carry out this Act.

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 Natural 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, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to provide for certain administrative and support services for the Dwight D. Eisenhower Memorial Commission.

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:

H.R. 2094—A bill to provide for certain administrative and support services for the Dwight D. Eisenhower Memorial Commission

Summary: H.R. 2094 would expand the authorities of the Dwight D. Eisenhower Memorial Commission and would authorize the appropriation of whatever amounts are necessary to carry out its mis-

sion. The commission was established in 1999 to develop a plan for a memorial to Dwight D. Eisenhower.

Assuming appropriation of the necessary amounts, CBO estimates that the commission would spend about \$10 million over the next five years to carry out its responsibilities. This amount would be used primarily to hire and compensate additional staff, who would manage the design of the memorial. Enacting H.R. 2094 would not affect direct spending or revenues.

H.R. 2094 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no cost on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2094 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	2	2	2	2	2
Estimated Outlays	2	2	2	2	2

Basis of Estimate: The new authorities provided by H.R. 2094 would allow the commission to directly hire administrative staff to manage the process of designing the memorial over the next several years. At present, the commission staff consists of four full-time contractors hired by GSA and is funded with periodic grants from the Department of Defense. (The most recent grant, for \$1.7 million, was appropriated for 2006.) Under H.R. 2094, the commission's staff would be expanded and would become temporary federal employees rather than GSA contractors. Based on information provided by the commission and assuming appropriation of the necessary amounts, CBO estimates that this entity would spend a total of about \$2 million annually over the next five years—for staff compensation, commissioners' expenses, and other operating costs. H.R. 2094 does not address the design and construction of the memorial, and the bill's enactment would not affect those activities. Under existing law, expenses for those purposes will be paid from amounts deposited to the memorial fund created by Public Law 107-117, which also authorized construction of the memorial on federal land.

Intergovernmental and private-section impact: H.R. 2094 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On June 13, 2007, CBO transmitted a cost estimate for S. 890, a bill to provide for certain administrative and support services for the Dwight D. Eisenhower Memorial Commission, as ordered reported by the Senate Committee on Energy and Natural Resources on May 23, 2007. S. 890 and H.R. 2094 are identical, as are their estimated costs.

Estimate prepared by: Federal costs: Deborah Reis; Impact on state, local, and tribal governments: Leo Lex; Impact on the private sector: Jacob Kuipers.

Estimate approved by: Theresa Gullo, Deputy Assistant Director
for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 2094 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

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):

**SECTION 8162 OF THE DEPARTMENT OF DEFENSE
APPROPRIATIONS ACT, 2000**

SEC. 8162. DWIGHT D. EISENHOWER MEMORIAL. (a) * * *

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[(j) POWERS.—The Commission may—

[(1) make such expenditures for services and materials for the purpose of carrying out this section as the Commission considers advisable from funds appropriated or received as gifts for that purpose;

[(2) solicit and accept contributions to be used in carrying out this section or to be used in connection with the construction or other expenses of the memorial; and

[(3) hold hearings, enter into contracts for personal services and otherwise, and do such other things as are necessary to carry out this section.]]

(j) POWERS OF THE COMMISSION.—

(1) IN GENERAL.—

(A) POWERS.—*The Commission may—*

(i) make such expenditures for services and materials for the purpose of carrying out this section as the Commission considers advisable from funds appropriated or received as gifts for that purpose;

(ii) solicit and accept contributions to be used in carrying out this section or to be used in connection with the construction or other expenses of the memorial;

(iii) hold hearings and enter into contracts;

(iv) enter into contracts for specialized or professional services as necessary to carry out this section; and

(v) take such actions as are necessary to carry out this section.

(B) *SPECIALIZED OR PROFESSIONAL SERVICES.*—Services under subparagraph (A)(iv) may be—

(i) obtained without regard to the provisions of title 5, United States Code, including section 3109 of that title; and

(ii) may be paid without regard to the provisions of title 5, United States Code, including chapter 51 and subchapter III of chapter 53 of that title.

(2) *GIFTS OF PROPERTY.*—The Commission may accept gifts of real or personal property to be used in carrying out this section, including to be used in connection with the construction or other expenses of the memorial.

(3) *FEDERAL COOPERATION.*—At the request of the Commission, a Federal department or agency may provide any information or other assistance to the Commission that the head of the Federal department or agency determines to be appropriate.

(4) *POWERS OF MEMBERS AND AGENTS.*—

(A) *IN GENERAL.*—If authorized by the Commission, any member or agent of the Commission may take any action that the Commission is authorized to take under this section.

(B) *ARCHITECT.*—The Commission may appoint an architect as an agent of the Commission to—

(i) represent the Commission on various governmental source selection and planning boards on the selection of the firms that will design and construct the memorial; and

(ii) perform other duties as designated by the Chairperson of the Commission.

(C) *TREATMENT.*—An authorized member or agent of the Commission (including an individual appointed under subparagraph (B)) providing services to the Commission shall be considered an employee of the Federal Government in the performance of those services for the purposes of chapter 171 of title 28, United States Code, relating to tort claims.

(5) *TRAVEL.*—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

* * * * *

(o) *STAFF AND SUPPORT SERVICES.*—

(1) *EXECUTIVE DIRECTOR.*—There shall be an Executive Director appointed by the Commission to be paid at a rate not to exceed the maximum rate of basic pay for level IV of the Executive Schedule.

(2) *STAFF.*—

(A) *IN GENERAL.*—The staff of the Commission may be appointed and terminated without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title, relating to classification and General Schedule pay rates, except that an individual appointed

under this paragraph may not receive pay in excess of the maximum rate of basic pay for GS-15 of the General Schedule.

(B) SENIOR STAFF.—Notwithstanding subparagraph (A), not more than 3 staff employees of the Commission (in addition to the Executive Director) may be paid at a rate not to exceed the maximum rate of basic pay for level IV of the Executive Schedule

(3) STAFF OF FEDERAL AGENCIES.—On request of the Commission, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission to carry out its duties under this section.

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(A) IN GENERAL.—The Commission may obtain temporary, intermittent, and part-time services under section 3109 of title 5, United States Code, at rates not to exceed the maximum annual rate of basic pay payable under section 5376 of that title.

(B) NON-APPLICABILITY TO CERTAIN SERVICES.—This paragraph shall not apply to services under subsection (j)(1)(A)(iv).

(7) VOLUNTEER SERVICES.—

(A) IN GENERAL.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and utilize the services of volunteers serving without compensation.

(B) REIMBURSEMENT.—The Commission may reimburse such volunteers for local travel and office supplies, and for other travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(C) LIABILITY.—

(i) IN GENERAL.—Subject to clause (ii), a volunteer described in subparagraph (A) shall be considered to be a volunteer for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.).

(ii) EXCEPTION.—Section 4(d) of the Volunteer Protection Act of 1997 (42 U.S.C. 14503(d)) shall not apply for purposes of a claim against a volunteer described in subparagraph (A).

(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

[(o)] (q) APPROPRIATION OF FUNDS.—In addition to amounts provided elsewhere in this Act, there is appropriated to the Commission \$300,000, to remain available until expended.

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