

## Calendar No. 233

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SENATE

{ REPORT  
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### BRIGADIER GENERAL FRANCIS MARION MEMORIAL ACT OF 2007

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JUNE 26, 2007.—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. 497]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 497) to authorize the Marion Park Project, a committee of the Palmetto Conservation Foundation, to establish a commemorative work on Federal land in the District of Columbia, and its environs to honor Brigadier General Francis Marion, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

#### PURPOSE OF THE MEASURE

The purpose of H.R. 497 is to authorize the Marion Park Project, a committee of the Palmetto Conservation Foundation, to establish a commemorative work on Federal land in the District of Columbia and its environs to honor Brigadier General Francis Marion.

#### BACKGROUND AND NEED

H.R. 497 would establish a commemorative work on federal land in or around Washington, DC to honor Brigadier General Francis Marion (born c. 1732–died 1795), who commanded the Williamsburg Militia Revolutionary force in South Carolina and was instrumental in delaying the advance of British forces. Nicknamed the “Swamp Fox” by the British, Marion led successful efforts to disrupt the British supply lines, and has been credited for inventing and applying innovative battle tactics, which were instrumental to the Americans’ ultimate victory in the Revolutionary War.

## LEGISLATIVE HISTORY

H.R. 497, sponsored by Congressman Wilson, passed the House of Representatives by a vote of 390–0 on March 5, 2007. A companion measure, S. 312, was introduced by Senators Graham and DeMint on January 17, 2007. During the 109th Congress, the House passed a similar measure, H.R. 5057, by a voice vote on July 24, 2006.

The Subcommittee on National Parks held a hearing on H.R. 497 and S. 312 on April 26, 2007. At its business meeting on May 23, 2007, the Committee on Energy and Natural Resources ordered H.R. 497 favorably reported, without amendment.

## COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on May 23, 2007, by a unanimous voice vote of a quorum present, recommends that the Senate pass H.R. 497.

## SECTION-BY-SECTION ANALYSIS

*Section 1* contains the short title, the “Brigadier General Francis Marion Memorial Act of 2007.”

*Section 2(a)* contains Congressional findings.

Subsection (b) authorizes the Marion Park Project, a committee of the non-profit Palmetto Conservation Foundation, to establish a commemorative work on Federal land in the District of Columbia or its environs to honor Brigadier General Francis Marion.

Subsection (c) requires that the memorial be established in accordance with the Commemorative Works Act (40 U.S.C. 8901 et seq.).

Subsection (d) prohibits the use of Federal funds for the establishment of the memorial. The Marion Park Project is to be solely responsible for funding the establishment of the memorial.

Subsection (e) states that if there are excess funds after payment of all expenses associated with the establishment of the memorial, the balance shall be transmitted to the Secretary of the Treasury as provided in the Commemorative Works Act.

Subsection (f) clarifies that the terms “commemorative work” and “the District of Columbia and its environs” have the same meaning as used in the Commemorative Works Act.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

MAY 31, 2007.

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. 497, the Brigadier General Francis Marion Memorial Act of 2007.

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

Sincerely,

PETER R. ORSZAG.

Enclosure.

*H.R. 497—Brigadier General Francis Marion Memorial Act of 2007*

H.R. 497 would authorize a nonprofit organization to establish a commemorative work honoring Brigadier General Francis Marion. CBO estimates that implementing H.R. 497 would have no significant impact on the federal budget. Enacting the legislation would affect revenues and direct spending, but we estimate that such effects would not be significant.

The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

H.R. 497 would authorize the Palmetto Conservation Foundation to establish the monument to the Revolutionary War hero on federal land in Washington, DC, subject to the requirements of the Commemorative Works Act (CWA) and without the use of federal funds. Under the CWA, any entity that receives a permit to construct a memorial in the District of Columbia or its environs must deposit an amount equal to 10 percent of the memorial's estimated construction cost in the U.S. Treasury. The funds deposited are then available without further appropriation for maintenance and preservation of the structure.

Based on information provided by the National Park Service, CBO estimates that the federal government would collect a deposit from the nonprofit organization of less than \$100,000 once the memorial has been built. Based on the history of similar commemorative projects, we expect that the deposit would not be received for several years, and spending of any amounts received would be minimal in any fiscal year. The act also would require the organization to pay the Treasury any amounts that it collects from contributors in excess of construction costs, but CBO estimates that no such amounts would be paid.

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

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 497. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 497, as ordered reported.

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the April 26, 2007 subcommittee hearing on H.R. 497 follows:

STATEMENT OF DANIEL N. WENK, DEPUTY DIRECTOR,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 312 and H.R. 497, bills to authorize the Marion Park Project, a committee of the Palmetto Conservation Foundation, to establish a commemorative work on Federal land in the District of Columbia and its environs to honor Brigadier General Francis Marion.

The Department of the Interior supports enactment of S. 312 and H.R. 497, and we suggest that a technical correction be made to S. 312 to make it consistent with the House-passed companion bill, H.R. 497. The Senate bill references "the Marion Park Project and Committee of the Palmetto Conservation Foundation" as the entities authorized to establish the commemorative work. We suggest an amendment to change this reference to "the Marion Park Project, a committee of the Palmetto Conservation Foundation." The National Capital Memorial Advisory Commission considered proposals to establish this memorial on June 27, 2006, and unanimously endorsed the establishment of a memorial in the Nation's Capital to Brigadier General Francis Marion.

S. 312 and H.R. 497 would establish a commemorative work on Federal land to honor Brigadier General Francis Marion in accordance with the Commemorative Works Act. They would prohibit Federal funds from being used to pay any expense of the establishment of the commemorative work, requiring the Marion Park Project and Committee of the Palmetto Conservation Foundation to be solely responsible for funding and establishment. After payment of the expenses for establishing the commemorative work, which includes the offset for the maintenance and preservation of the memorial, or upon expiration of the authority for the commemorative work, S. 312 and H.R. 497 would direct all remaining funds to be transmitted to the Secretary of the Treasury for deposit in an account provided for this purpose. S. 312 also would direct any funds remaining for the commemorative work upon expiration of legislative authority to be transferred to the same account.

Memorials built in the District of Columbia and its environs on lands managed by the National Park Service or the General Services Administration are established in accordance with the Commemorative Works Act. If a memorial is proposed on lands managed by the National Park Service, the Commemorative Works Act requires that within 7 years from the date of enactment, the sponsor obtain approvals for its location and design from the Secretary of the Interior, the National Capital Planning Commission, and the Commission of Fine Arts and complete its fundraising for the memorial. The National Park Service issues a permit to begin construction of the memorial as soon as construction documents are certified and evidence

of sufficient funds to complete the memorial have been provided by the sponsor. The Commemorative Works Act also requires an additional 10 percent of the construction cost to be provided to defray future unbudgeted maintenance costs. Since 1986, memorials that range from large-scale memorials to memorial plaques have been established under the terms of the Commemorative Works Act. These have fully met the requirements to obtain a permit to begin construction.

Although S. 312 and H.R. 497 do not designate a specific site for the memorial, they recognize that U.S. Reservation 18 has been named Marion Park since 1878 but lacks a formal commemoration to Brigadier General Francis Marion. Marion Park is located between 4th and 6th Streets, SE at the intersection E Street and South Carolina Avenue, SE in Washington, DC. This site is located in Area II under the Commemorative Works Act, which requires that the subject be of "lasting historical significance to the American people." While Marion Park is the logical place to locate this memorial, we would like the opportunity to study alternative locations with potential nexus to Brigadier General Marion under the provisions of the Commemorative Works Act. Site selection is an important part of the process established by the Commemorative Works Act. Thus, recognizing Marion Park in the findings of the bill, rather than designating it as the site for the commemorative work, is appropriate.

Brigadier General Francis Marion commanded the Williamsburg Militia Revolutionary force in South Carolina and was instrumental in delaying the advance of British forces by leading his troops in disrupting supply lines. He is credited for inventing and applying innovative battle tactics in this effort, keys to an ultimate victory for the American Colonies in the Revolutionary War. Additionally, Brigadier General Marion's troops are believed to have been the first racially integrated force fighting for the United States. In our judgment he is certainly worthy of being commemorated in our Nation's Capital.

Mr. Chairman, thank you for the opportunity to comment. This concludes my prepared remarks and I will be happy to answer any questions you or other subcommittee members might have.

#### 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. 497, as ordered reported.