

WAR MEMORIAL PROTECTION ACT

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JULY 20, 2011.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 290]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 290) to amend title 36, United States Code, to ensure that memorials commemorating the service of the United States Armed Forces may contain religious symbols, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 290 is to amend title 36, United States Code, to ensure that memorials commemorating the service of the United States Armed Forces may contain religious symbols.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 290 would allow the inclusion of religious symbols as part of military monuments. This bill was introduced shortly after the 9th Circuit Court of Appeals found the Mt. Soledad Cross in La Jolla, California, violated the Constitution because it displayed a religious preference and was not solely a war memorial.

In 1913, a 43-foot cross was placed on Mt. Soledad in La Jolla, California. Starting in 1989, the City of San Diego was sued over the cross. The plaintiffs claimed a violation of the First Amendment to the U.S. Constitution and the California Constitution which bars the State or local government from using funds to assist religious sects or churches, or from showing preference to one religion over another.

Several remedies were attempted over the years to avoid having the cross removed by order of the courts. These included transferring the property to a non-profit, for which San Diego was sued for showing a preference; and the federal government taking the land by eminent domain (the Department of Defense took possession of the property in 2006). Subsequently, the federal government was sued and the Ninth Circuit Court of Appeals ruled the cross unconstitutional in January 2011.

While the legislation does not specifically address the Mt. Soledad situation, its purpose is to statutorily protect religious symbols in all war memorials.

Section 2 of the legislation states that inclusion of religious symbols is authorized to recognize the religious background of members of the United States Armed Forces. These symbols may be included as part of a military memorial that is established or acquired by the United States Government; or a military memorial that is not established by the United States Government, but for which the American Battle Monuments Commission cooperated in the establishment of the memorial.

COMMITTEE ACTION

H.R. 290, the War Memorial Protection Act, was introduced on January 12, 2011, by Congressman Duncan Hunter (R-CA). 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 May 4, 2011, the Subcommittee held a hearing on the bill. On May 25, 2011, the Full Natural Resources Committee met to consider the bill. The Subcommittee on National Parks, Forests and Public Lands was discharged by unanimous consent. No amendments were offered, and the bill was favorably reported to the House of Representatives by unanimous consent.

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.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) 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)(2)(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. 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. 290—War Memorial Protection Act

H.R. 290 would allow religious symbols to be included as part of any military monument established or acquired by the U.S. government or military memorials established in cooperation with the American Battle Monuments Commission (ABMC).

Under current law, religious symbols are not barred from being used in any military memorials; thus, H.R. 290 would codify current practice. According to the Department of Defense, the National Park Service, and the ABMC, implementing H.R. 290 would not require any new memorials to be built or current memorials to be changed. On that basis, CBO estimates that there would be no costs associated with implementing H.R. 290.

Enacting H.R. 290 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 290 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.

The CBO staff contact for this estimate is Dwayne M. Wright. The estimate was approved by Theresa A. Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of 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. CBO estimates that there would be no costs associated with implementing H.R. 290. Enacting H.R. 290 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the rules of the House of Representatives does not apply.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

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 (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 36, UNITED STATES CODE

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**SUBTITLE I—PATRIOTIC AND NATIONAL
OBSERVANCES AND CEREMONIES**

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**PART B—UNITED STATES GOVERNMENT OR-
GANIZATIONS INVOLVED WITH OBSERV-
ANCES AND CEREMONIES**

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**CHAPTER 21—AMERICAN BATTLE MONUMENTS
COMMISSION**

Sec.
2101. Membership.

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2115. *Inclusion of religious symbols as part of military memorials.*

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**§2115. *Inclusion of religious symbols as part of military me-
morials***

(a) *INCLUSION OF RELIGIOUS SYMBOLS AUTHORIZED.—To recog-
nize the religious background of members of the United States
Armed Forces, religious symbols may be included as part of—*

*(1) a military memorial that is established or acquired by the
United States Government; or*

*(2) a military memorial that is not established by the United
States Government, but for which the American Battle Monu-
ments Commission cooperated in the establishment of the me-
morial.*

(b) *MILITARY MEMORIAL DEFINED.—In this section, the term
“military memorial” means a memorial or monument commemo-
rating the service of the United States Armed Forces. The term in-
cludes works of architecture and art described in section 2105(b) of
this title.*

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