

Calendar No. 572

114TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 114-336

KOREAN WAR VETERANS MEMORIAL WALL OF REMEMBRANCE ACT

SEPTEMBER 6, 2016.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 1475]

The Committee on Energy and Natural Resources, to which was referred the bill (H.R. 1475) to authorize a Wall of Remembrance as part of the Korean War Veterans Memorial and to allow certain private contributions to fund that Wall of Remembrance, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Korean War Veterans Memorial Wall of Remembrance Act”.

SEC. 2. WALL OF REMEMBRANCE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Notwithstanding section 8908(c) of title 40, United States Code, the Korean War Veterans Memorial Foundation, Inc., may construct a Wall of Remembrance at the site of the Korean War Veterans Memorial.

(2) REQUIREMENT.—

(A) IN GENERAL.—The Wall of Remembrance shall include a list of names of members of the Armed Forces of the United States who died in the Korean War, as determined by the Secretary of Defense, in accordance with subparagraph (B).

(B) CRITERIA; SUBMISSION TO THE SECRETARY OF THE INTERIOR.—The Secretary of Defense shall—

(i) establish eligibility criteria for the inclusion of names on the Wall of Remembrance under subparagraph (A); and

(ii) provide to the Secretary of the Interior a final list of names for inclusion on the Wall of Remembrance under subparagraph (A) that meet the criteria established under clause (i).

(3) ADDITIONAL INFORMATION.—The Wall of Remembrance may include other information about the Korean War, including the number of members of the Armed Forces of the United States, the Korean Augmentation to the United States Army, the Republic of Korea Armed Forces, and the other nations of the United Nations Command who, in regards to the Korean War—

- (A) were killed in action;
- (B) were wounded in action;
- (C) are listed as missing in action; or
- (D) were prisoners of war.

(b) COMMEMORATIVE WORKS ACT.—Except as provided in subsection (a)(1), chapter 89 of title 40, United States Code (commonly known as the “Commemorative Works Act”), shall apply.

(c) NO FEDERAL FUNDS.—No Federal funds may be used to construct the Wall of Remembrance.

PURPOSE

The purpose of H.R. 1475 is to authorize a Wall of Remembrance as part of the Korean War Veterans Memorial and to allow certain private contributions to fund that Wall of Remembrance.

BACKGROUND AND NEED

On October 28, 1986, Congress passed Public Law 99–572, authorizing the construction of the Korean War Veterans Memorial located near the Lincoln Memorial on the National Mall in Washington, D.C. The Memorial falls within an area known as the Reserve. Congress created the Reserve in November 2003 (by Public Law 108–126) to prohibit the addition of future memorials within the area.

The Memorial commemorates the sacrifices of 5.8 million Americans worldwide who served in the U.S. armed services during the three-year period of the Korean War. The Memorial also recognizes the participation of the 22 nations who served as United Nations contributors. During the Korean War’s duration (June 25, 1950–July 27, 1953) 54,246 Americans died worldwide. Of these, 8,200 are listed as missing in action, lost, or buried at sea. An additional 103,284 were wounded during the conflict.

H.R. 1475 authorizes the Korean War Veterans Memorial Foundation to add a Wall of Remembrance with a list of names of members of the Armed Forces of the United States who died in the Korean War, as determined by the Secretary of Defense. The Wall of Remembrance authorized by H.R. 1475 may include additional information about the Korean War, including the number of service members who were wounded in action, are listed as missing in action, or who were prisoners of war during the Korean War, as well as the number of members of the Korean Augmentation to the U.S. Army, the Republic of Korea Armed Forces, and other nations of the United Nations Command who were killed in action, wounded in action, are listed as missing in action, or were prisoners of war.

The Wall of Remembrance is to be constructed in accordance with the Commemorative Works Act. Additionally, the Wall of Remembrance will be financed solely through non-governmental funds.

LEGISLATIVE HISTORY

Representative Sam Johnson introduced H.R. 1475 on March 19, 2015. On February 3, 2016, the House Natural Resources Committee ordered H.R. 1475 reported. The House of Representatives

passed H.R. 1475 under suspension of the rules by voice vote on February 24, 2016.

Senators Cardin and Boozman introduced similar legislation, S. 1982, in the Senate on August 5, 2015. The Subcommittee on National Parks held a hearing on the measure on March 17, 2016.

In the 113th Congress, Representative Ralph Hall introduced H.R. 318 on January 18, 2013. The Subcommittee on Public Lands and Environmental Regulation held a hearing on the bill on June 10, 2014.

The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered H.R. 1475 favorably reported as amended. The bill was placed on the Senate Calendar on July 14, 2016 (Cal. No. 572).

COMMITTEE AMENDMENT

During its consideration of H.R. 1475, the Committee adopted an amendment in the nature of a substitute to authorize a Wall of Remembrance as part of the Korean War Veterans Memorial and to allow certain private contributions to fund that Wall of Remembrance. The amendment also made the Wall of Remembrance subject to the Commemorative Works Act.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 13, 2016, by a majority voice vote of a quorum present, recommends that the Senate pass H.R. 1475, if amended, as described herein.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title.

Section 2. Wall of Remembrance

Section 2(a) authorizes the Korean War Veterans Memorial Foundation, Inc. to construct a Wall of Remembrance at the site of the Korean War Veterans Memorial. The Wall of Remembrance shall include a list of names of members of the Armed Forces of the United States who died in the Korean War, as determined by the Secretary of Defense. The Secretary of Defense is directed to establish eligibility criteria for the inclusion of names on the Wall on Remembrance and provide the final list of names to the Secretary of the Interior for inclusion on the wall. The Wall of Remembrance may include other information about the Korean War; including the number of members of the Armed Forces of the United States, the Korean Augmentation to the United States Army, the Republic of Korea Armed Forces, and the other nations of the United Nations Command who were killed in action; were wounded in action; are listed as missing in action; or were prisoners of war.

Subsection (b) clarifies that the Wall of Remembrance is to be constructed in accordance with the Commemorative Works Act.

Subsection (c) clarifies that no federal funds may be used to construct the Wall of Remembrance.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 8, 2016.

Hon. LISA MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1475, the Korean War Veterans Memorial Wall of Remembrance Act.

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

Sincerely,

MARK P. HADLEY,
(For Keith Hall, *Director*).

Enclosure.

H.R. 1475—Korean War Veterans Memorial Wall of Remembrance Act

H.R. 1475 would authorize the expansion of the Korean War Veterans Memorial in Washington, D.C. Under the bill, the memorial would be expanded to include a “Wall of Remembrance” that would commemorate U.S. and United Nations forces who were killed, wounded, found to be missing in action, or were taken as prisoners of war during the Korean War.

Under the bill, construction of the project would be funded with private donations. However, the National Park Service (NPS) would be responsible for maintaining the addition once it is completed. Based on information from the NPS, CBO expects that the project would not be completed for a few years because funds are not currently sufficient to begin construction.

CBO estimates that implementing the legislation would have an insignificant cost to the federal government over the 2017–2021 period, mostly because maintenance costs would not be incurred until the memorial has been completed. Because enacting H.R. 1475 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 1475 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 1475 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.

On February 19, 2016, CBO transmitted a cost estimate for H.R. 1475 as ordered reported by the House Committee on Natural Resources on February 3, 2016. The two versions of the legislation are similar and CBO’s estimates of their budgetary effects are the same.

The CBO staff contact for this estimate is Jon Sperl. The estimate was approved by Theresa Gullo, 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. 1475. The bill 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. 1475, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 1475, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the March 17, 2016, Subcommittee on National Parks hearing on H.R. 1475 follows:

STATEMENT OF PEGGY O'DELL, DEPUTY DIRECTOR FOR OPERATIONS, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 1982, a bill to authorize a Wall of Remembrance as part of the Korean War Veterans Memorial and to allow certain private contributions to fund that Wall of Remembrance.

The Department appreciates the effort to recognize the service men and women who gave their lives during the Korean War, but we oppose S. 1982 because it would significantly alter the character of the existing Korean War Veterans Memorial, and it is inconsistent with the Commemorative Works Act.

S. 1982 would amend Public Law 99-572 to expand upon the original purpose and design of the Korean War Veterans Memorial. The bill adds new subjects for commemoration and would require the display of certain information at the memorial about members of the United States Armed Forces who served in the Korean Conflict. Also, the bill would require the display of information at the memorial about members of the Korean armed forces and other Korean military personnel as well as the 20 other non-U.S. forces that were part of the United Nations Command who served in the Korean Conflict.

The Korean War Veterans Memorial commemorates the sacrifices of over 5.7 million Americans who served in the U.S. armed services during the three-year period of the Korean War. The Memorial also recognizes the participation of the 22 nations who served as United Nations con-

tributors. During the Korean War's relatively short duration from June 25, 1950, to July 27, 1953, 54,246 Americans died. Of these, 8,200 are listed as missing in action, lost, or buried at sea. In addition, 103,284 were wounded during the conflict.

The Memorial was designed, constructed and completed by its legislatively designated sponsor, the American Battle Monuments Commission (ABMC) and the Korean War Veterans Memorial Advisory Board, with public involvement throughout. It was dedicated on July 27, 1995.

The Memorial's design, and each of its features down to its plantings, is symbolic. The Memorial is the culmination of years of work by the ABMC, and careful reviews, followed by revisions, and ultimately approvals reached by the National Park Service and other federal entities including the National Capital Planning Commission and the U.S. Commission of Fine Arts. This painstaking and public process began with the competition design, and resulted in the completed Memorial we know today. The Memorial should not now be changed to include the engraving of names of Americans who died in that conflict. The opportunity to mimic the design characteristics present at the Vietnam Veterans Memorial was purposefully avoided when the design was requested during an open, international design competition.

The concept of engraving names at this Memorial was considered extensively when the Memorial was being designed. The ABMC and the Korean War Veterans Memorial Advisory Board with the Department's concurrence, advised against the incorporation of engraved names at the Memorial. Both agencies arrived at this decision upon reflection of years of experience with the Vietnam Veterans Memorial. Inscribing names is a lengthy and painstaking process even when it goes smoothly. But more important, as the Vietnam Veterans Memorial experience showed, there is not always agreement on those names to be included and those names that are not, and this has led to public contention and controversy. Choosing some names and omitting others causes a place of solace to become a source of hurt. The Vietnam Veterans Memorial honors all who served in that conflict, but only the names of those killed within the combat zone, and confirmed by the Department of Defense, meet the criteria to be engraved on the Wall. This means that those killed by a fire on a Navy ship just outside the zone are not eligible to have their names engraved on the wall—a difficult message for their survivors to accept.

The ABMC and the Department felt the lessons learned at the Vietnam Veterans Memorial must not be ignored, that a different type of commemoration must occur at the Korean War Veterans Memorial, and that the Memorial should be representative in design and not include individual names. As a compromise to the Korean War veterans who wanted the names engraved, ABMC created the Korean War Honor Roll, which is an electronic registry of

names. Visitors have access to this registry from the Internet or at the kiosks at the Memorial. A kiosk containing the Korean War Honor Roll stands at the west entrance of the Memorial. It is serviced by a National Park Service ranger, who provides assistance to visitors. The Honor Roll computer contains the names of all military personnel who lost their lives during the Korean War, including the individual's name, service, rank, service number, date of birth, hometown or county of entry into the service, cause of death, and date of death. If the information is furnished to ABMC, the Honor Roll includes the serviceman's unit, his awards, the circumstances surrounding his death or his going missing in action and a photograph. The ABMC also has the names of those missing engraved at the Courts of the Missing at the Honolulu Memorial.

The Korean War Veterans Memorial is located near the Lincoln Memorial on the National Mall in Washington, D.C., in an area designated by Congress in the Commemorative Works Act as the Reserve an area in which no new commemorative works shall be located. As Congress noted in the law creating the Reserve, ". . . the great cross-axis of the Mall in the District of Columbia . . . is a substantially completed work of civic art; and . . . to preserve the integrity of the Mall, a reserve area should be designated . . . where the siting of new commemorative works is prohibited." The Korean War Veterans Memorial is a completed work of civic art in this special landscape of the Reserve. Moreover, we cannot ignore the practical effect of this legislation. Essentially, the Memorial wall would be a second Korean War Veterans Memorial, effectively thwarting the intent of the Commemorative Works Act to prohibit new memorials within the Reserve and would be an addition that would significantly alter the character of the existing Memorial. And this second memorial would have the effect of violating the Commemorative Works Act prohibition on interfering or encroaching on an existing memorial.

We feel very strongly that the Korean War Veterans Memorial, like the Vietnam Veterans Memorial, exists to recall the exemplary service and sacrifice of outstanding Americans, and this memorial has already been completed as it stands today. The Korean War Veterans Memorial is a place of honor and dignity and we should avoid any intrusions that will become a source of contention or controversy.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you or other members of the subcommittee may have regarding this bill.

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 bill as ordered reported.

