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400 YEARS OF AFRICAN-AMERICAN HISTORY COMMISSION ACT

MAY 16, 2017.—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 S. 392]

[Including Cost Estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 392) to establish the 400 Years of African-American History Commission, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 392 is to establish the 400 Years of African-American History Commission.

BACKGROUND AND NEED

In August 1619, the first documented Africans arrived by warship at Point Comfort in the English colony of Virginia. The group, recorded upon arrival as “20 and odd Negros,” was sold as involuntary laborers or indentured servants. Slavery had not been institutionalized at that point so these Africans were informed they would work under contract for a certain period of time before being granted freedom and the rights afforded other settlers. White indentured servants were listed along with their year of expected freedom whereas no such year accompanied the names of the African indentured servants.

The historic arrival of that group marked the beginning of the trend in colonial America where people of Africa were taken

unwillingly from their homeland, transplanted, and committed to lifelong slavery and racial discrimination.

August 2019 will mark 400 years since the first arrival of Africans to present day America. There is an interest in commemorating the contributions Americans of African descent have made to help shape the cultural, academic, social, economic, and moral attributes of this nation. A federal “400 Years of African-American History Commission” would mark this historic heritage.

LEGISLATIVE HISTORY

S. 392 was introduced by Senators Kaine, Warner, Booker, and Blunt on February 15, 2017.

In the 114th Congress, Senator Kaine introduced similar legislation, S. 2548, on February 11, 2016. The Subcommittee on National Parks held a hearing on S. 2548 on June 15, 2016. The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 2548 favorably reported as amended (S. Rept. 114–350).

Representative Scott introduced similar legislation, H.R. 4539, on February 11, 2016. H.R. 4539 passed the House of Representatives by voice vote on July 5, 2016.

The Committee on Energy and Natural Resources met in open business session on March 30, 2017, and ordered S. 392 favorably reported.

On February 28, 2017, a related bill, H.R. 1242 was introduced by Representative Scott and 45 additional cosponsors. It was reported by the House Oversight and Government Reform Committee on March 28, 2017.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 30, 2017, by a majority voice vote of a quorum present, recommends that the Senate pass S. 392.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title.

Section 2. Definitions

Section 2 contains key definitions.

Section 3. Establishment

Section 3(a) establishes the “400 Years of African-American History Commission.”

Subsection (b) designates the composition of the 15-member Commission, appointed by the Secretary and in consultation with various entities such as State Governors; civil rights and historical organizations; the NPS; the Secretary of the Smithsonian Institution; and Members of Congress. The subsection specifies that initial members of the Commission must be appointed within 120 days after the Act’s enactment; appointment terms are for the life of the Commission; vacancies are to be filled in the same manner as an original appointment; and those appointed to fill a vacancy shall serve the remainder of the term for which the predecessor was ap-

pointed. In addition, the subsection restricts the service of a member appointed as the NPS employee to no more than 30 days after the member ceases to be an NPS employee.

Subsection (c) sets from the Commission's duties, including the requirements to plan, develop, and carry out a wide array of programs; encourage civic, patriotic, historical, educational, artistic, religious, economic, and other organizations throughout the country to commemorate contributions made by African-Americans to the nation since 1619; develop appropriate programs and anniversary activities; ensure that commemoration observances are inclusive; and educate the public on the impact of slavery and laws that enforced racial discrimination on the U.S.

Section 4. Commission meetings

Section 4(a) directs the Commission to hold its initial meeting not later than 30 days after all members are appointed.

Subsection (b) instructs the Commission to meet at least three times each year or at the call of the Chairperson or the majority of Commission members.

Subsection (c) specifies that a majority of the voting members shall constitute a quorum, but a lesser number may hold meetings.

Subsection (d) directs the Commission to elect a Chairperson and Vice Chairperson on an annual basis, with the Vice Chairperson serving as Chairperson in the absence of the Chairperson.

Subsection (e) states the Commission shall act only on an affirmative vote of a majority of the Commission members.

Section 5. Commission powers

Section 5(a) allows the Commission to accept, use, and dispose of gifts or devises of money or other property in support of the Commission's work.

Subsection (b) permits the Commission to appoint advisory committees as needed to carry out the Act.

Subsection (c) grants any member or employee of the Commission to take any action authorized under the Act.

Subsection (d) authorizes the Commission to enter into contracts, leases or other legal agreements that cannot extend beyond the date of termination of the Commission for the purpose of procuring supplies, services, and property in support of the Act.

Subsection (e) enables the Commission to utilize the U.S. Postal Service under the same conditions and manner as used by other federal government agencies.

Subsection (f) permits the Commission to provide grants of up to \$20,000 to communities and non-profits organizations, research and scholarly organizations, and State and localities to assist with and further the commemoration.

Section 6. Commission personnel matters

Section 6(a) specifies that a member of the Commission shall serve without compensation and that members who are federal employees shall receive only compensation for their service with the federal government.

Subsection (b) allows a member of the Commission travel expenses while performing duties of the Commission away from the regular place of business, including a per diem.

Subsection (c) authorizes the Chairperson of the Commission to nominate an executive director, to be confirmed by the Commission, to perform the duties of the Commission.

Subsection (d) sets forth the compensation and maximum rate of pay for the executive director.

Subsection (e) specifies that any federal agency, on a reimbursable or non-reimbursable basis and at the request of the Commission, may detail any personnel of the agency, without interruption or loss of civil service status or privilege, to the Commission to assist in carrying out the duties of the Commission under the Act. The subsection also allows the Commission to accept detail services from state employees with reimbursement to the state for those services.

Subsection (f) permits the Chairperson of the Commission to procure temporary and intermittent services.

Subsection (g) allows the Commission to accept and use voluntary and uncompensated services as deemed necessary.

Subsection (h) requires the Secretary to provide administrative support to the Commission as requested on a reimbursable basis to be credited to the account used for paying the amount reimbursed.

Subsection (i) states that nothing in this section supersedes the authority of the NPS with respect to the commemoration.

Section 7. Plans; reports

Section 7(a) requires the Commission to complete a strategic plan for its activities.

Subsection (b) directs the Commission to submit a final report to Congress, no later than July 1, 2020, that summarizes the activities of the Commission, gives a final accounting of the funds received and expended by the Commission, and lists all findings and recommendations.

Section 8. Authorization of appropriations

Section 8(a) authorizes such sums as may be necessary to carry out the Act.

Subsection (b) states that any appropriated funds shall remain available to the Commission until July 1, 2020.

Section 9. Termination of Commission

Section 9(a) terminates the Commission on July 1, 2020.

Subsection (b) requires the Commission to transfer all documents and materials of the Commission to the National Archives or another appropriate federal entity before the termination date.

COST AND BUDGETARY CONSIDERATIONS

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

S. 392 would establish a commission to plan activities and provide grants to develop programs and events to commemorate 400 years of African American history in the United States. The bill would authorize the appropriation of the necessary amounts for those purposes. The commission would consist of 15 members. Members would serve without pay but would be reimbursed for travel expenses. The legislation would authorize the commission to make grants to communities, nonprofit organizations, and other

groups to conduct activities to commemorate the anniversary. In addition, the commission could hire staff, use personnel from other federal agencies or state governments, and accept volunteers to perform its work. The commission would submit a final report to the Congress and terminate on July 1, 2020.

Based on the cost of similar commissions, CBO estimates that implementing the bill would cost about \$2 million a year—a total of \$6 million over the 2018–2021 period, assuming appropriation of the necessary amounts. Enacting S. 392 would affect direct spending because it would authorize the commission to accept and spend monetary gifts; therefore, pay-as-you-go procedures apply. However, CBO estimates that the net effect on direct spending would be negligible. Enacting S. 392 would not affect revenues.

CBO estimates that enacting S. 392 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 392 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On April 4, 2017, CBO transmitted a cost estimate for H.R. 1242, the 400 years of African-American History Commission Act, as ordered reported by the House Committee on Oversight and Government Reform on March 28, 2017. The two pieces of legislation are similar and CBO's estimates of their cost are the same.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by H. Samuel Papenfuss, 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 S. 392. 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 S. 392, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 392, 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

Because S. 392 is similar to legislation considered by the Committee in the 114th Congress, the Committee did not request Executive Agency views. The testimony provided by the National Park Service at the hearing before the Subcommittee on National Parks hearing on June 15, 2016, follows:

STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, 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. 2548, a bill to establish the 400 Years of African-American History Commission.

The Department supports S. 2548, however, we would like to work with the committee on the composition of the commission.

S. 2548 would create the 400 Years of African-American History Commission (Commission) to commemorate four centuries of African-American history in the United States. Through programs, activities, education, and outreach, the Commission would honor the arrival of Africans in the United States and the contributions of African-Americans throughout the nation.

The Commission would consist of 15 members appointed by the Secretary of the Interior, including an employee of the National Park Service (NPS). It also authorizes the Commission to provide grants of up to \$20,000 and technical assistance to communities and nonprofit organizations for the development of programs, projects, and activities to assist in the commemoration. It would also provide grants to research and scholarly organizations to research, publish, and distribute information relating to the arrival of Africans in the United States. The bill would allow federal employees to be detailed to the Commission, at the Commission's request. Finally, the bill provides the authorization of funds until the Commission terminates on July 1, 2020.

When the first African people arrived in the English colonies at Point Comfort, Virginia, in 1619, it was not in the pursuit of a new life, wealth, or freedom from oppression; it was in bondage, against their will, with a loss of their freedom. Their arrival marked the beginning of a long and difficult narrative of slavery, resistance, reconstruction, and civil rights, with the story still being written today. However, in all the tragedy and hardship that is interwoven into the history of slavery in America, there is a greater narrative of resilience and perseverance, making it one of the greatest survival stories rarely told and not fully understood. The work of this Commission would support the research, preservation, and commemoration of this 400-year history of courage, determination, and great accomplishment in the face of brutal oppression.

There are several units in the National Park System that help to tell the story of the African-American struggle and triumph, including the Harriet Tubman Underground Railroad National Monument, the Charles Young Buffalo Soldiers National Monument, and the African Burial Ground National Monument. However, the NPS recognizes that there are countless sites outside of the system that

deserve recognition. These sites and stories related to African-American history have not always been fully recognized or preserved, and are often in danger of being lost or destroyed. If enacted, S. 2548 would establish a Commission that could prevent further loss through partnership coordination, research, educational outreach efforts, technical assistance, and commemoration activities leading up the 400-year anniversary of African-American history. Establishing a commission to commemorate and recognize the resilience and contributions of African-Americans since 1619, as envisioned in S. 2548, would provide the nation an opportunity to reflect upon their struggles and successes within an environment that would be inclusive and contemplative. The Department of the Interior and the National Park Service stand ready to contribute their resources and expertise to this important commemoration. Ultimately, the Commission would create greater public insight, foster preservation, and promote increased awareness of this 400-year narrative of great resilience and immeasurable contribution to our American story.

While we support establishment of this Commission, we would like to work with the committee to ensure that the Commission represents a diverse composition of national, state, local, and private individuals.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions you or other members of the subcommittee may 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 bill as ordered reported.

