

110TH CONGRESS
1ST SESSION

H. R. 1389

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2007

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To establish the Star-Spangled Banner and War of 1812
Bicentennial Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Star-Spangled Banner
3 and War of 1812 Bicentennial Commission Act”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds that—

6 (1) the War of 1812 served as a crucial test for
7 the United States Constitution and the newly estab-
8 lished democratic Government;

9 (2) vast regions of the new multi-party democ-
10 racy, including the Chesapeake Bay, the Gulf of
11 Mexico and the Niagara Frontier, were affected by
12 the War of 1812 including the States of Alabama,
13 Connecticut, Delaware, Florida, Georgia, Iowa, Illi-
14 nois, Indiana, Kentucky, Louisiana, Massachusetts,
15 Maryland, Maine, Michigan, Missouri, Mississippi,
16 New Jersey, North Carolina, New Hampshire, New
17 York, Ohio, Oregon, Pennsylvania, Rhode Island,
18 South Carolina, Tennessee, Virginia, Vermont, Wis-
19 consin, West Virginia, and the District of Columbia;

20 (3) the British occupation of American territory
21 along the Great Lakes and in other regions, the
22 burning of Washington, DC, the American victories
23 at Fort McHenry, New Orleans, and Plattsburgh,
24 among other battles, had far reaching effects on
25 American society;

1 (4) at the Battle of Baltimore, Francis Scott
2 Key wrote the poem that celebrated the flag and
3 later was titled “the Star-Spangled Banner”;

4 (5) the poem led to the establishment of the
5 flag as an American icon and became the words of
6 the national anthem of the United States in 1932;
7 and

8 (6) it is in the national interest to provide for
9 appropriate commemorative activities to maximize
10 public understanding of the meaning of the War of
11 1812 in the history of the United States.

12 (b) PURPOSES.—The purposes of this Act are to—

13 (1) establish the Star-Spangled Banner and
14 War of 1812 Commemoration Commission;

15 (2) ensure a suitable national observance of the
16 War of 1812 by complementing, cooperating with,
17 and providing assistance to the programs and activi-
18 ties of the various States involved in the commemo-
19 ration;

20 (3) encourage War of 1812 observances that
21 provide an excellent visitor experience and beneficial
22 interaction between visitors and the natural and cul-
23 tural resources of the various War of 1812 sites;

24 (4) facilitate international involvement in the
25 War of 1812 observances;

1 (5) support and facilitate marketing efforts for
2 a commemorative coin, stamp, and related activities
3 for the War of 1812 observances; and

4 (6) promote the protection of War of 1812 re-
5 sources and assist in the appropriate development of
6 heritage tourism and economic benefits to the
7 United States.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) **COMMEMORATION.**—The term “commemo-
11 ration” means the commemoration of the War of
12 1812.

13 (2) **COMMISSION.**—The term “Commission”
14 means the Star-Spangled Banner and War of 1812
15 Bicentennial Commission established in section 4(a).

16 (3) **QUALIFIED CITIZEN.**—The term “qualified
17 citizen” means a citizen of the United States with
18 an interest in, support for, and expertise appropriate
19 to the commemoration.

20 (4) **SECRETARY.**—The term “Secretary” means
21 the Secretary of the Interior.

22 (5) **STATES.**—The term “States”—

23 (A) means the States of Alabama, Ken-
24 tucky, Indiana, Louisiana, Maryland, Vermont,

1 Virginia, New York, Maine, Michigan, and
2 Ohio; and

3 (B) includes agencies and entities of each
4 State.

5 **SEC. 4. STAR-SPANGLED BANNER AND WAR OF 1812 COM-**
6 **MEMORATION COMMISSION.**

7 (a) IN GENERAL.—The Secretary shall establish a
8 commission to be known as the “Star-Spangled Banner
9 and War of 1812 Bicentennial Commission”.

10 (b) MEMBERSHIP.—

11 (1) IN GENERAL.—The Commission shall be
12 composed of 22 members, of whom—

13 (A) 11 members shall be qualified citizens
14 appointed by the Secretary after consideration
15 of nominations submitted by the Governors of
16 Alabama, Kentucky, Indiana, Louisiana, Maine,
17 Maryland, Michigan, New York, Ohio, Vermont,
18 and Virginia;

19 (B) 3 members shall be qualified citizens
20 appointed by the Secretary after consideration
21 of nominations submitted by the Mayors of the
22 District of Columbia, the City of Baltimore, and
23 the City of New Orleans;

24 (C) 2 members shall be employees of the
25 National Park Service, of whom—

1 (i) 1 shall be the Director of the Na-
2 tional Park Service (or a designee); and

3 (ii) 1 shall be an employee of the Na-
4 tional Park Service having experience rel-
5 evant to the commemoration;

6 (D) 4 members shall be qualified citizens
7 appointed by the Secretary with consideration
8 of recommendations—

9 (i) 1 of which are submitted by the
10 majority leader of the Senate;

11 (ii) 1 of which are submitted by the
12 minority leader of the Senate;

13 (iii) 1 of which are submitted by the
14 majority leader of the House of Represent-
15 atives;

16 (iv) 1 of which are submitted by the
17 minority leader of the House of Represent-
18 atives; and

19 (E) 2 members shall be appointed by the
20 Secretary from among individuals with exper-
21 tise in the history of the War of 1812.

22 (2) DATE OF APPOINTMENTS.—The appoint-
23 ment of a member of the Commission shall be made
24 not later than 120 days after the date of enactment
25 of this Act.

1 (c) TERM; VACANCIES.—

2 (1) TERM.—A member shall be appointed for
3 the life of the Commission.

4 (2) VACANCIES.—A vacancy on the Commis-
5 sion—

6 (A) shall not affect the powers of the Com-
7 mission; and

8 (B) shall be filled in the same manner as
9 the original appointment was made.

10 (d) VOTING.—

11 (1) IN GENERAL.—The Commission shall act
12 only on an affirmative vote of a majority of the
13 members of the Commission.

14 (2) QUORUM.—A majority of the members of
15 the Commission shall constitute a quorum.

16 (e) CHAIRPERSON AND VICE CHAIRPERSON.—

17 (1) SELECTION.—The Commission shall select
18 a chairperson and a vice chairperson from among
19 the members of the Commission.

20 (2) ABSENCE OF CHAIRPERSON.—The vice
21 chairperson shall act as chairperson in the absence
22 of the chairperson.

23 (f) INITIAL MEETING.—Not later than 60 days after
24 the date on which all members of the Commission have

1 been appointed and funds have been provided, the Com-
2 mission shall hold the initial meeting of the Commission.

3 (g) MEETINGS.—Not less than twice a year, the Com-
4 mission shall meet at the call of the chairperson or a ma-
5 jority of the members of the Commission.

6 (h) REMOVAL.—Any member who fails to attend 3
7 successive meetings of the Commission or who otherwise
8 fails to participate substantively in the work of the Com-
9 mission may be removed by the Secretary and the vacancy
10 shall be filled in the same manner as the original appoint-
11 ment was made. Members serve at the discretion of the
12 Secretary.

13 **SEC. 5. DUTIES.**

14 (a) IN GENERAL.—The Commission shall—

15 (1) plan, encourage, develop, execute, and co-
16 ordinate programs, observances, and activities com-
17 memorating the historic events that preceded and
18 are associated with the War of 1812;

19 (2) facilitate the commemoration throughout
20 the United States and internationally;

21 (3) coordinate the activities of the Commission
22 with State commemoration commissions, the Na-
23 tional Park Service, the Department of Defense, and
24 other appropriate Federal agencies;

1 (4) encourage civic, patriotic, historical, edu-
2 cational, religious, economic, tourism, and other or-
3 ganizations throughout the United States to orga-
4 nize and participate in the commemoration to ex-
5 pand the understanding and appreciation of the sig-
6 nificance of the War of 1812;

7 (5) provide technical assistance to States, local-
8 ities, units of the National Park System, and non-
9 profit organizations to further the commemoration
10 and commemorative events;

11 (6) coordinate and facilitate scholarly research
12 on, publication about, and interpretation of the peo-
13 ple and events associated with the War of 1812;

14 (7) design, develop, and provide for the mainte-
15 nance of an exhibit that will travel throughout the
16 United States during the commemoration period to
17 interpret events of the War of 1812 for the edu-
18 cational benefit of the citizens of the United States;

19 (8) ensure that War of 1812 commemorations
20 provide a lasting legacy and long-term public benefit
21 leading to protection of the natural and cultural re-
22 sources associated with the War of 1812; and

23 (9) examine and review essential facilities and
24 infrastructure at War of 1812 sites and identify pos-

1 sible improvements that could be made to enhance
2 and maximize visitor experience at the sites.

3 (b) STRATEGIC PLAN; ANNUAL PERFORMANCE
4 PLANS.—The Commission shall prepare a strategic plan
5 and annual performance plans for any activity carried out
6 by the Commission under this Act.

7 (c) REPORTS.—

8 (1) ANNUAL REPORT.—The Commission shall
9 submit to Congress an annual report that contains
10 a list of each gift, bequest, or devise to the Commis-
11 sion with a value of more than \$250, together with
12 the identity of the donor of each gift, bequest, or de-
13 vise.

14 (2) FINAL REPORT.—Not later than September
15 30, 2015, the Commission shall submit to the Sec-
16 retary and Congress a final report that includes—

17 (A) a summary of the activities of the
18 Commission;

19 (B) a final accounting of any funds re-
20 ceived or expended by the Commission; and

21 (C) the final disposition of any historically
22 significant items acquired by the Commission
23 and other properties not previously reported.

24 **SEC. 6. POWERS.**

25 (a) IN GENERAL.—The Commission may—

1 (1) solicit, accept, use, and dispose of gifts or
2 donations of money, services, and real and personal
3 property related to the commemoration in accord-
4 ance with Department of the Interior and National
5 Park Service written standards for accepting gifts
6 from outside sources;

7 (2) appoint such advisory committees as the
8 Commission determines to be necessary to carry out
9 this Act;

10 (3) authorize any member or employee of the
11 Commission to take any action the Commission is
12 authorized to take under this Act;

13 (4) use the United States mails in the same
14 manner and under the same conditions as other
15 agencies of the Federal Government; and

16 (5) make grants to communities, nonprofit,
17 commemorative commissions or organizations, and
18 research and scholarly organizations to develop pro-
19 grams and products to assist in researching, pub-
20 lishing, marketing, and distributing information re-
21 lating to the commemoration.

22 (b) LEGAL AGREEMENTS.—

23 (1) IN GENERAL.—In carrying out this Act, the
24 Commission may—

1 (A) procure supplies, services, and prop-
2 erty; and

3 (B) make or enter into contracts, leases, or
4 other legal agreements.

5 (2) LENGTH.—Any contract, lease, or other
6 legal agreement made or entered into by the Com-
7 mission shall not extend beyond the date of termi-
8 nation of the Commission.

9 (c) INFORMATION FROM FEDERAL AGENCIES.—

10 (1) IN GENERAL.—The Commission may secure
11 directly from a Federal agency such information as
12 the Commission considers necessary to carry out this
13 Act.

14 (2) PROVISION OF INFORMATION.—On request
15 of the Chairperson of the Commission, the head of
16 the agency shall provide the information to the Com-
17 mission in accordance with applicable laws.

18 (d) FACA NONAPPLICABILITY.—Section 14(b) of the
19 Federal Advisory Committees Act (5 U.S.C. App.) shall
20 not apply to the Commission.

21 (e) NO EFFECT ON AUTHORITY.—Nothing in this
22 Act supersedes the authority of the States or the National
23 Park Service concerning the commemoration.

24 **SEC. 7. PERSONNEL MATTERS.**

25 (a) MEMBERS OF THE COMMISSION.—

1 (1) IN GENERAL.—Except as provided in sub-
2 section (c)(1)(A), a member of the Commission shall
3 serve without compensation.

4 (2) TRAVEL EXPENSES.—A member of the
5 Commission shall be allowed travel expenses, includ-
6 ing per diem in lieu of subsistence, at rates author-
7 ized for an employee of an agency under subchapter
8 I of chapter 57 of title 5, United States Code, while
9 away from the home or regular place of business of
10 the member in the performance of the duties of the
11 Commission.

12 (3) STATUS.—A member of the Commission,
13 who is not otherwise a Federal employee, shall be
14 considered a Federal employee only for purposes of
15 the provisions of law related to ethics, conflicts of in-
16 terest, corruption, and any other criminal or civil
17 statute or regulation governing the conduct of Fed-
18 eral employees.

19 (b) EXECUTIVE DIRECTOR AND OTHER STAFF.—

20 (1) IN GENERAL.—The Chairperson of the
21 Commission may, without regard to the provisions of
22 title 5, United States Code, governing appointments
23 in the competitive service and termination of employ-
24 ees (including regulations), appoint and terminate
25 an executive director, subject to confirmation by the

1 Commission, and appoint and terminate such other
2 additional personnel as are necessary to enable the
3 Commission to perform the duties of the Commis-
4 sion.

5 (2) STATUS.—The Executive Director and other
6 staff appointed under this subsection shall be consid-
7 ered Federal employees under section 2105 of title
8 5, United States Code, notwithstanding the require-
9 ments of such section.

10 (3) CONFIRMATION OF EXECUTIVE DIREC-
11 TOR.—The employment of an executive director shall
12 be subject to confirmation by the Commission.

13 (4) COMPENSATION.—

14 (A) IN GENERAL.—Except as provided in
15 subparagraph (B), the Chairperson of the Com-
16 mission may fix the compensation of the execu-
17 tive director and other personnel without regard
18 to the provisions of chapter 51 and subchapter
19 III of chapter 53 of title 5, United States Code,
20 relating to classification of positions and Gen-
21 eral Schedule pay rates.

22 (B) MAXIMUM RATE OF PAY.—The rate of
23 basic pay for the executive director and other
24 personnel shall not exceed the rate payable for

1 level V of the Executive Schedule under section
2 5316 of title 5, United States Code.

3 (c) GOVERNMENT EMPLOYEES.—

4 (1) FEDERAL EMPLOYEES.—

5 (A) SERVICE ON COMMISSION.—A member
6 of the Commission who is an officer or em-
7 ployee of the Federal Government shall serve
8 without compensation in addition to the com-
9 pensation received for the services of the mem-
10 ber as an officer or employee of the Federal
11 Government.

12 (B) DETAIL.—At the request of the Com-
13 mission, the head of any Federal agency may
14 detail, on a reimbursable or nonreimbursable
15 basis, any of the personnel of the agency to the
16 Commission to assist the Commission in car-
17 rying out the duties of the Commission under
18 this Act.

19 (C) CIVIL SERVICE STATUS.—Notwith-
20 standing any other provisions in this section,
21 Federal employees who serve on the Commis-
22 sion, are detailed to the Commission, or other-
23 wise provide services under the Act, shall con-
24 tinue to be Federal employees for the purpose
25 of any law specific to Federal employees, with-

1 out interruption or loss of civil service status or
2 privilege.

3 (2) STATE EMPLOYEES.—The Commission
4 may—

5 (A) accept the services of personnel de-
6 tailed from States (including subdivisions of
7 States) under subchapter VI of chapter 33 of
8 title 5, United States Code; and

9 (B) reimburse States for services of de-
10 tailed personnel.

11 (d) MEMBERS OF ADVISORY COMMITTEES.—Mem-
12 bers of advisory committees appointed under section
13 6(a)(2)—

14 (1) shall not be considered employees of the
15 Federal Government by reason of service on the
16 committees for the purpose of any law specific to
17 Federal employees, except for the purposes of chap-
18 ter 11 of title 18, United States Code, relating to
19 conflicts of interest; and

20 (2) may be paid travel expenses, including per
21 diem in lieu of subsistence, at rates authorized for
22 an employee of an agency under subchapter I of
23 chapter 57 of title 5, United States Code, while
24 away from the home or regular place of business of

1 the member in the performance of the duties of the
2 committee.

3 (e) VOLUNTEER AND UNCOMPENSATED SERVICES.—
4 Notwithstanding section 1342 of title 31, United States
5 Code, the Commission may accept and use such voluntary
6 and uncompensated services as the Commission deter-
7 mines necessary.

8 (f) SUPPORT SERVICES.—The Director of the Na-
9 tional Park Service shall provide to the Commission, on
10 a reimbursable basis, such administrative support services
11 as the Commission may request.

12 (g) PROCUREMENT OF TEMPORARY AND INTERMIT-
13 TENT SERVICES.—The Chairperson of the Commission
14 may employ experts and consultants on a temporary or
15 intermittent basis in accordance with section 3109(b) of
16 title 5, United States Code, at rates for individuals that
17 do not exceed the daily equivalent of the annual rate of
18 basic pay prescribed for level V of the Executive Schedule
19 under section 5316 of that title. Such personnel shall be
20 considered Federal employees under section 2105 of title
21 5, United States Code, notwithstanding the requirements
22 of such section.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-
3 priated to carry out this Act not to exceed \$500,000 for
4 each of fiscal years 2008 through 2015.

5 (b) AVAILABILITY OF FUNDS.—Amounts appro-
6 priated under this section for any fiscal year shall remain
7 available until December 31, 2015.

8 **SEC. 9. TERMINATION OF COMMISSION.**

9 (a) IN GENERAL.—The Commission shall terminate
10 on December 31, 2015.

11 (b) TRANSFER OF MATERIALS.—Not later than the
12 date of termination, the Commission shall transfer any
13 documents, materials, books, manuscripts, miscellaneous
14 printed matter, memorabilia, relics, exhibits, and any ma-
15 terials donated to the Commission that relate to the War
16 of 1812, to Fort McHenry National Monument and His-
17 toric Shrine.

18 (c) DISPOSITION OF FUNDS.—Any funds held by the
19 Commission on the date of termination shall be deposited
20 in the general fund of the Treasury.

21 (d) ANNUAL AUDIT.—The Inspector General of the
22 Department of the Interior shall perform an annual audit
23 of the Commission, shall make the results of the audit
24 available to the public, and shall transmit such results to
25 the Committee on Oversight and Government Reform in

1 the House of Representatives and the Committee on Judi-
2 ciary in the Senate.

Passed the House of Representatives September 24,
2007.

Attest: LORRAINE C. MILLER,
Clerk.