AUTHORIZING A MEMORIAL TO MEMBERS OF THE UNITED STATES ARMED FORCES WHO SERVED IN THE KOREAN WAR

SEPTEMBER 19 (legislative day, SEPTEMBER 15), 1986.—Ordered to be printed

Mr. McClure, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 2205]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2205), to authorize the American Battle Monuments Commission to establish a memorial to honor members of the Armed Forces of the United States who served in the Korean conflict, having considered the same, reports favorably thereon with an amendment to the text and an amendment to the title and recommends that the Act, as amended, do pass.

The amendments are as follows:

1. Strike all after the enacting clause and insert in lieu thereof:

AUTHORIZATION OF MEMORIAL

SECTION 1. The American Battle Monuments Commission is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the Senate on September 10, 1986 (S. Rept. 99-421).

ESTABLISHMENT OF KOREAN WAR VETERANS MEMORIAL ADVISORY BOARD

SEC. 2. (a) There is hereby established a Korean War Veterans Memorial Advisory Board which shall consist of 12 veterans who served in the Korean War. The members of the Board shall be appointed by the President within 120 calendar days of enactment of this Act.

(b) The Korean War Veterans Memorial Advisory Board shall be responsible for:

(1) recommending the site and selecting the design for the memorial, subject to the approval of the American Battle Monuments Commission and in accord-
ance with Section 7(a) of H.R. 4378, as approved by the Senate on September 10, 1986; and
(2) promoting the establishment of the memorial and encouraging the donation of private funds for the construction and maintenance of the memorial.

FEDERAL AUTHORIZATION AND PRIVATE FUNDING

Sec. 3. (a) The American Battle Monuments Commission shall establish the memorial with private funds except as provided in subsection (b) of this section. For the purpose of carrying out this Act, the American Battle Monuments Commission is authorized to solicit and accept private contributions. The Commission is directed to establish an account into which these private funds shall be deposited and to maintain documentation of such contributions.
(b) There are hereby authorized to be appropriated:
(1) $500,000 for site preparation, design, planning and associated administrative costs for the establishment of the memorial; and
(2) $500,000 for construction of the memorial, to be available only after a construction permit has been issued for the memorial.
(c) Private funds donated in excess of the cost of construction and maintenance of the memorial shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States for funds appropriated pursuant to subsection (b) of this section.

2. Amend the title so as to read:

An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War

PURPOSE OF THE MEASURE

The purpose of H.R. 2205, as reported by the Committee on Energy and Natural Resources, is to authorize the American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia and its environs, to honor members of the Armed Forces of the United States who served in the Korean War.

BACKGROUND AND NEED

Approximately 5,720,000 Americans served in the military forces in Korea during the 3-year period of the Korean War (1950–1953). Of that number, 103,284 were wounded and 54,246 died during that conflict. Some 7,140 American servicemen were captured by the enemy.

H.R. 2205, as reported by the Committee on Energy and Natural Resources authorizes the establishment of a memorial to those members of the Armed Forces who served in the Korean War, particularly those who were killed in action, are still listed as missing in action or were held prisoners of war.

LEGISLATIVE HISTORY

H.R. 2205 passed the House of Representatives on November 6, 1985. Similar legislation was introduced by Senator Armstrong (S. 1223) and Senator Denton (S.J. Res. 184). On October 29, 1985, the Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on S. 1223 and S.J. Res. 184.

At a business meeting on September 17, 1986, the Senate Committee on Energy and Natural Resources ordered H.R. 2205, as amended, favorably reported.
The Senate Committee on Energy and Natural Resources, in open business session on September 17, 1986, by unanimous voice vote of a quorum present recommends that the Senate pass H.R. 2205, if amended, as described herein.

COMMITTEE AMENDMENTS

The Committee amendment in the nature of a substitute modifies the language of H.R. 2205 to make the legislation comply with the commemorative work policy legislation approved by the Senate on September 10, 1986 (H.R. 4378, S. Rept. 99-421). See appendix for the text of H.R. 4378 as passed by the Senate on September 10, 1986.

Additionally, the substitute establishes a Korean War Veterans Memorial Advisory Board to recommend the site and design of the memorial. The Advisory Board will encourage the donation of private funds for the construction and maintenance of the memorial, which will be deposited in an account maintained by the American Battle Monuments Commission. The substitute authorizes $500,000 for site preparation, design, planning and associated administrative costs, and $500,000 for construction.

The construction funds may be available only after sufficient private funds have been collected to complete the memorial and to provide for maintenance as required by the policy legislation approved by the Senate (H.R. 4378).

Private funds collected in excess of the cost of construction and maintenance of the memorial are to be used to reimburse the Treasury for funds appropriated.

The Committee expects administrative costs associated with site preparation, design and planning for the memorial to be minimal. The Committee also encourages the Secretary of Defense to provide the American Battle Monuments Commission with a list of those Americans who served in Korea who were killed in action, held as prisoners of war or are still listed as missing in action, in order to assist the Commission in establishing the memorial.

The Committee amendment to the title modifies the title to better reflect the purpose of this Act.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 18, 1986.

HON. JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2205, as amended and ordered reported by the Senate Committee on Energy and Natural Resources, September 17, 1986. This bill would authorize the American Battle Monuments Com-
mission to establish a memorial to honor members of the armed forces who served in Korean Conflict, would establish a Korean Conflict Veterans Memorial Advisory Board, and would authorize the appropriation of $1 million of certain administrative, design, planning, site preparation, and construction costs of the memorial.

The rate or expenditure for the funds authorized by this bill would be largely dependent upon the rate at which private donations for the memorial are received. Nevertheless, we expect that federal outlays would increase by less than $500,000 in any year as a result of the enactment of H.R. 2205. The budgets of state and local governments would not be affected by this bill, except to the extent that states should choose to donate moneys to the memorial fund.

If you have any questions regarding this estimate, please call me or have members of your staff contact Nina Shepherd.

With best wishes,

Sincerely,

EDWARD GRAMLICH
(For Rudolph G. Penner, Director).

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. 2205. 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. 2205 as reported.

EXECUTIVE COMMUNICATIONS

On September 8, 1986, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on H.R. 2205. These reports had not been received at the time the report on H.R. 2205 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate. The Committee has included the views of the Department of the Interior on the Senate companion measures, S. 1223 and S.J. Res. 184.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: This responds to your request for our views on S. 1223, "To authorize the erection of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces of the United States who served in the
Korean War,” and S.J. Res. 184, “To authorize the Korean War Memorial, Inc., to erect a memorial in the District of Columbia or its environs.”

We oppose enactment of S. 1223 and recommend enactment of S.J. Res. 184, if certain technical amendments are adopted.

S. 1223 would authorize the American Battle Monuments Commission to provide for the erection of a memorial on Federal land in the District of Columbia or its environs. The memorial would honor members of the United States Armed Forces who served in the Korean War, particularly those who were killed in action, missing in action or prisoners of war. The site, design, and construction plans for the memorial must be approved by the Commission of Fine Arts and the National Capital Planning Commission. Maintenance would be the responsibility of the Department of the Interior. Such funds as are necessary are authorized to be appropriated.

S.J. Res. 184 would authorize a corporation, the Korean War Memorial, Inc., to erect a memorial having the same purposes. The Secretary of the Interior would select the site and maintain the memorial. The design and plans would have to be approved by the Secretary of the Interior, the Commission of Fine Arts, the National Capital Planning Commission, and the American Battle Monuments Commission. Authority to erect the memorial would lapse unless it is begun within five years and sufficient funds are available to complete it.

The Secretary of the Interior's National Capital Memorial Advisory Committee has recommended that as to military memorials, only those commemorating all members of the Armed Forces identified with a war or other significant event should be authorized on park land in the District of Columbia or its environs. Clearly, a memorial to all members of the Armed Forces who served in the Korean War is consistent with that policy.

The issue remains as to if the memorial should be erected by the American Battle Monuments Commission (a Federal agency), and with appropriated funds, as would be authorized by S. 1223, or be erected by a private corporation, with no Federal funds, as would be authorized by S.J. Res. 184. There is precedent for both approaches. The General John J. Pershing Memorial was erected by the American Battle Monuments Commission pursuant to the Act of November 7, 1966. The Vietnam Veterans and United States Navy Memorials, both authorized by Congress in 1980, were authorized to be erected by private organizations. We believe, and therefore recommend, that it is more appropriate to follow the precedent of the Vietnam Veterans and United States Navy Memorials on this issue, and erect the Korean War Memorial with private funds. We have no information about the private corporation referred to in S.J. Res. 184, or its ability to provide adequate funds for a memorial.

If your Committee acts on S.J. Res. 184, we recommend technical amendments to that measure. It would authorize the memorial on “public grounds”, which means only lands under the jurisdiction of Interior or the District of Columbia. The Joint Resolution should be amended to provide for approval of the Mayor of the District of Columbia of the site and the design, and for maintenance by the Mayor if the memorial were erected on land under the jurisdiction
of the District. If the memorial were erected on land administered by the Interior Department, we would have no objection to providing for its maintenance.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

P. DANIEL SMITH,
Deputy Assistant Secretary.

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. 2205, as reported.
APPENDIX

Reprinted below is the language of H.R. 4378, as approved by the Senate on September 10, 1986. The Act incorporates four amendments to the Committee-reported legislation offered on the Senate Floor.

H.R. 4378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSES

SECTION 1. The purposes of this Act are as follows:
(a) to preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital;
(b) to ensure the continued public use and enjoyment of open space in the District of Columbia;
(c) to preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital; and
(d) to ensure that future commemorative works in areas administered by the National Park Service and the General Services Administration in the District of Columbia and its environs (1) are appropriately designed, constructed, and located and (2) reflect a consensus of the lasting national significance of the subjects involved.

DEFINITIONS

SEC. 2. As used in this Act—
(a) the term "Secretary" means the Secretary of the Interior;
(b) the term "Administrator" means the Administrator of the General Services Administration;
(c) the term "commemorative work" means any statute, monument, sculpture, memorial, or other structure or landscape feature; including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of a person, group, event or other significant element of history. The term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes;
(d) the term "person" means an individual, group or organization authorized by Congress to establish a commemorative work in the District of Columbia and its environs;
(e) notwithstanding any other provision of law, the term "the District of Columbia and its environs" means those lands and properties administered by the National Park Service and the
General Services Administration located in Areas I and II as depicted on the map numbered 869/86501, and dated May 1, 1986.

Congressional Authorization of Commemorative Works in the District of Columbia and Its Environs

Sec. 3. (a) No commemorative work may be established in the District of Columbia and its environs unless specifically authorized by Act of Congress. All such authorized commemorative works shall be subject to applicable provisions of this Act.

(b) In considering legislation authorizing commemorative works within the District of Columbia and its environs, the appropriate congressional authorizing Committees shall solicit the views of the National Capital Memorial Commission.

National Capital Memorial Commission

Sec. 4. (a) The National Capital Memorial Advisory Committee as established by the Secretary is redesignated as the National Capital Memorial Commission. The membership of the Commission shall be expanded to include:

- Director, National Park Service (Chairman)
- Architect of the Capitol
- Chairman, American Battle Monuments Commission
- Chairman, Commission of Fine Arts
- Chairman, National Capital Planning Commission
- Mayor, District of Columbia
- Commissioner, Public Building Service, General Services Administration
- Secretary, Department of Defense

(b) The National Capital Memorial Commission shall advise the Secretary and the Administrator on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission shall meet at least twice annually.

Availability of Map Depicting Area I and Area II

Sec. 5. The Secretary and the Administrator shall make available, for public inspection at appropriate offices of the National Park Service and the General Services Administration, the map numbered 869/86501, and dated May 1, 1986.

Specific Conditions Applicable to Area I and Area II

Sec. 6. (a) Area I.—In addition to conditions set forth in subsection (b) of this section, no commemorative work may be located in Area I unless the Secretary or Administrator (as appropriate), after consultation with the National Capitol Memorial Commission, finds that the subject of the commemorative work is of preeminent historical and lasting significance to the Nation. The Secretary or Administrator (as appropriate) shall notify the Congress of his determination that a commemorative work should be located within
Area I. Unless the Congress enacts a joint resolution approving such determination within ninety days of such notification, the determination shall be deemed disapproved.

(b) Area II.—Commemorative works of subjects of lasting historical significance may be located in Area II, subject to the following conditions:

(1) A military commemorative work may be established in Area II only to commemorate a war or similar major military conflict or to commemorate any branch of the Armed Forces. No commemorative work commemorating a lesser conflict or a unit of an Armed Force shall be permitted in Area II.

(2) A commemorative work commemorating an individual or group of individuals, other than a commemorative work as described in subsection (b)(1) of this section, shall not be permitted in Area II until at least twenty-five years after the death of the individual or the last surviving member of the group.

(3) A commemorative work other than a work referred to in paragraph (1) or (2) may be constructed in Area II only to commemorate a subject of lasting historical significance.

SITE AND DESIGN APPROVAL

Sec. 7. (a) Any person authorized by law to establish a commemorative work in the District of Columbia and its environs shall comply with each of the following requirements before commencing construction of the commemorative work:

(1) Such person shall consult with the National Capital Memorial Commission regarding the commemorative work. Such consultation shall include consideration of potential sites in the District of Columbia and its environs.

(2) Following consultation in accordance with paragraph (1) of this section, such person shall submit site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission and the Secretary or Administrator (as appropriate) for their approval.

(b) In considering site and design proposals, the Commission of Fine Arts, the National Capital Planning Commission and the Secretary and Administrator shall be guided by the following criteria:

(1) to the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the commemorative work;

(2) a commemorative work shall be so located as to prevent interference with, or encroachment upon, any existing commemorative work and to protect, to the maximum extent practicable, open space and existing public use; and

(3) a commemorative work shall be constructed of durable material suitable to the outdoor environment. Landscape features of commemorative works shall be compatible with the climate.

CRITERIA FOR ISSUANCE OF CONSTRUCTION PERMIT

Sec. 8. (a) Prior to issuing a permit for the construction of a commemorative work in the District of Columbia and its environs, the Secretary or Administrator (as appropriate) shall determine that:
(1) the site and design have been approved by the Secretary or Administrator (as appropriate), the National Capital Planning Commission and the Commission of Fine Arts;

(2) knowledgeable persons qualified in the field of preservation and maintenance have been consulted to determine structural soundness and durability of the commemorative work, and to assure that the commemorative work meets high professional standards;

(3) the person authorized to construct the commemorative work has submitted contracts for construction and drawings of the commemorative work to the Secretary or Administrator (as appropriate); and

(4) the person authorized to construct the commemorative work has available sufficient funds to complete construction of the project.

(b) In addition to the foregoing criteria, no construction permit shall be issued unless the person authorized to construct the commemorative work has donated an amount equal to 10 per centum of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work: Provided, That the provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 per centum of the funding for such work is provided by private sources.

(1) Notwithstanding any other provision of law, all moneys provided by persons for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

(2) Congress authorizes and directs that the Secretary of the Treasury shall make all or a portion of such moneys available to the Secretary or the Administrator at his request for maintenance of commemorative works. Under no circumstances may the Secretary or Administrator request funds from the separate account exceeding the total moneys deposited by persons establishing commemorative works in areas he administers. The Secretary and the Administrator shall maintain an inventory of funds available for such purposes: Provided, That such moneys shall not be subject to annual appropriations.

TEMPORARY SITE STUDY

SEC. 9. (a) Within one year after the date of enactment, the Secretary and the Administrator shall, in consultation with the National Capital Memorial Commission, prepare and transmit to the Congress a study assessing the need for establishing an area within the District of Columbia and its environs where commemorative works may be sited on a temporary basis.

(b) Such a study shall include but not be limited to recommendations regarding the need for such an area; the location; the criteria for placement of commemorative works; management and administration of the area; and other factors as the Secretary and the Administrator deem appropriate.
MISCELLANEOUS PROVISIONS

SEC. 10. (a) Complete documentation of design and construction of each commemorative work located in the District of Columbia and its environs shall be provided to and permanently maintained by the Secretary or the Administrator (as appropriate).

(b) Any legislative authority for a commemorative work shall expire at the end of the five-year period beginning on the date of the enactment of such authority, unless the Secretary or Administrator (as appropriate) has issued a construction permit for the commemorative work during that period.

(c) Upon completion of any commemorative work within the District of Columbia and its environs, the Secretary or Administrator (as appropriate) shall assume responsibility for the maintenance of such work.

(d) The Secretary and the Administrator shall promulgate appropriate regulations to carry out this Act. The regulations shall be published in the Federal Register within one hundred and twenty days after the enactment of this Act.

(e) This Act shall not apply to commemorative works authorized by a law enacted before the commencement of the Ninety-ninth Congress.

Amend the title so as to read: “An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes.”.