

Calendar No. 858

106TH CONGRESS
2^D SESSION**H. R. 4115****[Report No. 106-436]**

 IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2000

Received; read twice and referred to the Committee on Energy and Natural
Resources

SEPTEMBER 28 (legislative day, SEPTEMBER 22), 2000

Reported by Mr. MURKOWSKI, without amendment

AN ACT

To authorize appropriations for the United States Holocaust
Memorial Museum, 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,*

3 **SECTION 1. AMENDMENT.**

4 Chapter 23 of title 36, United States Code, is amend-
5 ed to read as follows:

6 **“CHAPTER 23—UNITED STATES**7 **HOLOCAUST MEMORIAL MUSEUM**

“Sec. 2301. Establishment of the United States Holocaust Memorial Museum;
functions.

- “Sec. 2302. Functions of the Council; membership.
 “Sec. 2303. Compensation; travel expenses; full-time officers or employees of
 United States or Members of Congress.
 “Sec. 2304. Administrative provisions.
 “Sec. 2305. Staff.
 “Sec. 2306. Insurance for museum.
 “Sec. 2307. Gifts, bequests, and devises of property; tax treatment.
 “Sec. 2308. Annual report.
 “Sec. 2309. Audit of financial transactions.
 “Sec. 2310. Authorization of appropriations.

1 **“SEC. 2301. ESTABLISHMENT OF THE UNITED STATES HOL-**
 2 **OCAUST MEMORIAL MUSEUM; FUNCTIONS.**

3 “The United States Holocaust Memorial Museum
 4 (hereafter in this chapter referred to as the ‘Museum’) is
 5 an independent establishment of the United State Govern-
 6 ment. The Museum shall—

7 “(1) provide for appropriate ways for the Na-
 8 tion to commemorate the Days of Remembrance, as
 9 an annual, national, civic commemoration of the
 10 Holocaust, and encourage and sponsor appropriate
 11 observances of such Days of Remembrance through-
 12 out the United States;

13 “(2) operate and maintain a permanent living
 14 memorial museum to the victims of the Holocaust,
 15 in cooperation with the Secretary of the Interior and
 16 other Federal agencies as provided in section 2306
 17 of this title; and

18 “(3) carry out the recommendations of the
 19 President’s Commission on the Holocaust in its re-
 20 port to the President of September 27, 1979, to the

1 extent such recommendations are not otherwise pro-
2 vided for in this chapter.

3 **“SEC. 2302. FUNCTIONS OF THE COUNCIL; MEMBERSHIP.**

4 “(a) IN GENERAL.—The United States Holocaust
5 Memorial Council (hereafter in this chapter referred to as
6 the ‘Council’) shall be the board of trustees of the Museum
7 and shall have overall governance responsibility for the
8 Museum, including policy guidance and strategic direction,
9 general oversight of Museum operations, and fiduciary re-
10 sponsibility. The Council shall establish an Executive
11 Committee which shall exercise ongoing governance re-
12 sponsibility when the Council is not in session.

13 “(b) COMPOSITION OF COUNCIL; APPOINTMENT; VA-
14 CANCIES.—The Council shall consist of 65 voting members
15 appointed (except as otherwise provided in this section)
16 by the President and the following ex officio nonvoting
17 members:

18 “(1) One appointed by the Secretary of the In-
19 terior.

20 “(2) One appointed by the Secretary of State.

21 “(3) One appointed by the Secretary of Edu-
22 cation.

23 Of the 65 voting members, five shall be appointed by the
24 Speaker of the United States House of Representatives
25 from among Members of the United States House of Rep-

1 representatives and five shall be appointed by the President
2 pro tempore of the United States Senate upon the rec-
3 ommendation of the majority and minority leaders from
4 among Members of the United States Senate. Any vacancy
5 in the Council shall be filled in the same manner as the
6 original appointment was made.

7 “(c) TERM OF OFFICE.—

8 “(1) Except as otherwise provided in this sub-
9 section, Council members shall serve for 5-year
10 terms.

11 “(2) The terms of the five Members of the
12 United States House of Representatives and the five
13 Members of the United States Senate appointed dur-
14 ing any term of Congress shall expire at the end of
15 such term of Congress.

16 “(3) Any member appointed to fill a vacancy
17 occurring before the expiration of the term for which
18 his predecessor was appointed shall be appointed
19 only for the remainder of such term. A member,
20 other than a Member of Congress appointed by the
21 Speaker of the United States House of Representa-
22 tives or the President pro tempore of the United
23 States Senate, may serve after the expiration of his
24 term until his successor has taken office.

1 “(d) CHAIRPERSON AND VICE CHAIRPERSON; TERM
2 OF OFFICE.—The Chairperson and Vice Chairperson of
3 the Council shall be appointed by the President from
4 among the members of the Council and such Chairperson
5 and Vice Chairperson shall each serve for terms of 5 years.

6 “(e) REAPPOINTMENT.—Members whose terms ex-
7 pire may be reappointed, and the Chairperson and Vice
8 Chairperson may be reappointed to those offices.

9 “(f) BYLAWS.—The Council shall adopt bylaws to
10 carry out its functions under this chapter. The Chair-
11 person may waive a bylaw when the Chairperson decides
12 that waiver is in the best interest of the Council. Imme-
13 diately after waiving a bylaw, the Chairperson shall send
14 written notice of the waiver to every voting member of the
15 Council. The waiver becomes final 30 days after the notice
16 is sent unless a majority of Council members disagree in
17 writing before the end of the 30-day period.

18 “(g) QUORUM.—One-third of the members of the
19 Council shall constitute a quorum, and any vacancy in the
20 Council shall not affect its powers to function.

21 “(h) ASSOCIATED COMMITTEES.—Subject to appoint-
22 ment by the Chairperson, an individual who is not a mem-
23 ber of the Council may be designated as a member of a
24 committee associated with the Council. Such an individual
25 shall serve without cost to the Federal Government.

1 **“SEC. 2303. COMPENSATION; TRAVEL EXPENSES; FULL-**
2 **TIME OFFICERS OR EMPLOYEES OF UNITED**
3 **STATES OR MEMBERS OF CONGRESS.**

4 “(a) IN GENERAL.—Except as provided in subsection
5 (b) of this section, members of the Council are each au-
6 thorized to be paid the daily equivalent of the annual rate
7 of basic pay in effect for positions at level IV of the Execu-
8 tive Schedule under section 5315 of title 5, for each day
9 (including travel time) during which they are engaged in
10 the actual performance of duties of the Council. While
11 away from their homes or regular places of business in
12 the performance of services for the Council, members of
13 the Council shall be allowed travel expenses, including per
14 diem in lieu of subsistence, in the same manner as persons
15 employed intermittently in Government service are allowed
16 expenses under section 5703 of title 5.

17 “(b) EXCEPTION.—Members of the Council who are
18 full-time officers or employees of the United States or
19 Members of Congress shall receive no additional pay by
20 reason of their service on the Council.

21 **“SEC. 2304. ADMINISTRATIVE PROVISIONS.**

22 “(a) EXPERTS AND CONSULTANTS.—The Museum
23 may obtain the services of experts and consultants in ac-
24 cordance with the provisions of section 3109 of title 5,
25 at rates not to exceed the daily equivalent of the annual

1 rate of basic pay in effect for positions at level IV of the
2 Executive Schedule under section 5315 of title 5.

3 “(b) **AUTHORITY TO CONTRACT.**—The Museum may,
4 in accordance with applicable law, enter into contracts and
5 other arrangements with public agencies and with private
6 organizations and persons and may make such payments
7 as may be necessary to carry out its functions under this
8 chapter.

9 “(c) **ASSISTANCE FROM OTHER FEDERAL DEPART-**
10 **MENTS AND AGENCIES.**—The Secretary of the Smithso-
11 nian Institution, the Library of Congress, and the heads
12 of all executive branch departments, agencies, and estab-
13 lishments of the United States may assist the Museum
14 in the performance of its functions under this chapter.

15 “(d) **ADMINISTRATIVE SERVICES AND SUPPORT.**—
16 The Secretary of the Interior may provide administrative
17 services and support to the Museum on a reimbursable
18 basis.

19 **“SEC. 2305. STAFF.**

20 “(a) **ESTABLISHMENT OF THE MUSEUM DIRECTOR**
21 **AS CHIEF EXECUTIVE OFFICER.**—There shall be a direc-
22 tor of the Museum (hereafter in this chapter referred to
23 as the ‘Director’) who shall serve as chief executive officer
24 of the Museum and exercise day-to-day authority for the
25 Museum. The Director shall be appointed by the Chair-

1 person of the Council, subject to confirmation of the Coun-
2 cil. The Director may be paid with nonappropriated funds,
3 and, if paid with appropriated funds shall be paid the rate
4 of basic pay for positions at level IV of the Executive
5 Schedule under section 5315 of title 5. The Director shall
6 report to the Council and its Executive Committee
7 through the Chairperson. The Director shall serve at the
8 pleasure of the Council.

9 “(b) APPOINTMENT OF EMPLOYEES.—The Director
10 shall have authority to—

11 “(1) appoint employees in the competitive serv-
12 ice subject to the provisions of chapter 51 and sub-
13 chapter III of chapter 53 of title 5, relating to clas-
14 sification and general schedule pay rates;

15 “(2) appoint and fix the compensation (at a
16 rate not to exceed the rate of basic pay in effect for
17 positions at level IV of the Executive Schedule under
18 section 5315 of title 5) of up to three employees not-
19 withstanding any other provision of law; and

20 “(3) implement the decisions and strategic plan
21 for the Museum, as approved by the Council, and
22 perform such other functions as may be assigned
23 from time to time by the Council, the Executive
24 Committee of the Council, or the Chairperson of the
25 Council, consistent with this legislation.

1 **“SEC. 2306. INSURANCE FOR MUSEUM.**

2 “The Museum shall maintain insurance on the memo-
3 rial museum to cover such risks, in such amount, and con-
4 taining such terms and conditions as the Museum deems
5 necessary.

6 **“SEC. 2307. GIFTS, BEQUESTS, AND DEVISES OF PROPERTY;**

7 **TAX TREATMENT.**

8 “The Museum may solicit, and the Museum may ac-
9 cept, hold, administer, invest, and use gifts, bequests, and
10 devises of property, both real and personal, and all reve-
11 nues received or generated by the Museum to aid or facili-
12 tate the operation and maintenance of the memorial mu-
13 seum. Property may be accepted pursuant to this section,
14 and the property and the proceeds thereof used as nearly
15 as possible in accordance with the terms of the gift, be-
16 quest, or devise donating such property. Funds donated
17 to and accepted by the Museum pursuant to this section
18 or otherwise received or generated by the Museum are not
19 to be regarded as appropriated funds and are not subject
20 to any requirements or restrictions applicable to appro-
21 priated funds. For the purposes of Federal income, estate,
22 and gift taxes, property accepted under this section shall
23 be considered as a gift, bequest, or devise to the United
24 States.

1 **“SEC. 2308. ANNUAL REPORT.**

2 “The Director shall transmit to Congress an annual
3 report on the Director’s stewardship of the authority to
4 operate and maintain the memorial museum. Such report
5 shall include the following:

6 “(1) An accounting of all financial transactions
7 involving donated funds.

8 “(2) A description of the extent to which the
9 objectives of this chapter are being met.

10 “(3) An examination of future major endeavors,
11 initiatives, programs, or activities that the Museum
12 proposes to undertake to better fulfill the objectives
13 of this chapter.

14 “(4) An examination of the Federal role in the
15 funding of the Museum and its activities, and any
16 changes that may be warranted.

17 **“SEC. 2309. AUDIT OF FINANCIAL TRANSACTIONS.**

18 “Financial transactions of the Museum, including
19 those involving donated funds, shall be audited by the
20 Comptroller General as requested by Congress, in accord-
21 ance with generally accepted auditing standards. In con-
22 ducting any audit pursuant to this section, appropriate
23 representatives of the Comptroller General shall have ac-
24 cess to all books, accounts, financial records, reports, files
25 and other papers, items or property in use by the Museum,
26 as necessary to facilitate such audit, and such representa-

1 tives shall be afforded full facilities for verifying trans-
2 actions with the balances.

3 **“SEC. 2310. AUTHORIZATION OF APPROPRIATIONS.**

4 “To carry out the purposes of this chapter, there are
5 authorized to be appropriated such sums as may be nec-
6 essary. Notwithstanding any other provision of law, none
7 of the funds authorized to carry out this chapter may be
8 made available for construction. Authority to enter into
9 contracts and to make payments under this chapter, using
10 funds authorized to be appropriated under this chapter,
11 shall be effective only to the extent, and in such amounts,
12 as provided in advance in appropriations Acts.”.

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