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LEGISLATIVE AUTHORITY EXTENSION FOR VIETNAM MEMORIAL VISITOR CENTER

MAY 24, 2010.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 3689]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 3689) to provide for an extension of the legislative authority of the Vietnam Veterans Memorial Fund, Inc. to establish a Vietnam Veterans Memorial visitor center, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

The purpose of H.R. 3689 is to extend the legislative authority for construction of the Vietnam Veterans Memorial visitor center for an additional four years, to November 14, 2014.

BACKGROUND AND NEED

Public Law 96-297, enacted in 1980, authorized the Vietnam Veterans Memorial Fund, a non-profit organization based in the District of Columbia, to construct a memorial honoring veterans of the Vietnam War on three acres on the northwest portion of the National Mall. The memorial was formally dedicated in November 1982.

In 2003, Congress enacted Public Law 108-126, which authorized the Vietnam Veterans Memorial Fund (VVMF) to construct a visitor center at or near the Vietnam Veterans Memorial, in order to better inform and educate the public about the Vietnam Veterans Memorial and the Vietnam War. Construction of the visitor center was required to be undertaken in accordance with the Commemorative Works Act (40 U.S.C. 8901 et seq.).

Section 8903(e) of the Commemorative Works Act provides that legislative authority for a commemorative work expires seven years after the date of enactment of the authorization, unless the organization responsible for the commemorative work has raised all funds necessary for the commemorative work and has received the required Federal design and site approvals. Under those terms, the legislative authority for the Vietnam Veterans Memorial visitor center will expire on November 17, 2010.

Since the 2003 authorization, the VVMF has developed design concepts which were presented in 2007 to the Commission of Fine Arts and the National Capital Planning Commission. These concepts were further refined after meetings with the District of Columbia Historic Preservation Office in February 2009. However, the VVMF has not yet raised the necessary funds for the visitor center and without an extension of its legislative authority will be unable to complete the visitor center. H.R. 3689 amends the authorization for the visitor center to allow the Vietnam Veterans Memorial Fund four additional years to complete the center.

LEGISLATIVE HISTORY

H.R. 3689, sponsored by Representative Rahall, passed the House of Representatives by a vote of 390–0 on October 13, 2009. No companion measure has been introduced in the Senate.

The Subcommittee on National Parks held a hearing on H.R. 3689 on December 3, 2009. At its business meeting on May 6, 2010, the Committee on Energy and Natural Resources ordered H.R. 3689 favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 6, 2010, by a voice vote of a quorum present, recommends that the Senate pass H.R. 3689.

SECTION-BY-SECTION ANALYSIS

Section 1 amends section 6(b) of Public Law 96–297 to provide that any reference in the Commemorative Works Act to the expiration of legislative authority for a commemorative work 7 years after the date of authorization shall be considered to be a reference to an expiration on November 17, 2014. This amendment provides an additional four year authorization for construction of the visitor center.

COST AND BUDGETARY CONSIDERATIONS

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

H.R. 3689—An act to provide for an extension of the legislative authority of the Vietnam Veterans Memorial Fund, Inc., to establish a Vietnam Veterans Memorial visitor center, and for other purposes

H.R. 3689 would extend the legislative authority to construct a visitor center near the Vietnam Veterans Memorial. Based on information from the National Park Service (NPS), CBO estimates that

implementing the legislation would have no effect on the federal budget over the 2010–2015 period and would cost around \$2 million annually after 2015, assuming appropriation of the necessary amounts. Enacting H.R. 3689 would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

Under current law, legislative authority for a private nonprofit organization, the Vietnam Veterans Memorial Fund, Inc. (VVMF), to construct a visitor center near the Vietnam Veterans Memorial would expire in 2010. Under the bill, that authority would be extended until 2014. Based on information from the VVMF, CBO expects that construction of the visitor center would begin around 2014 and would be completed around 2016. Upon completion of the visitor center, the NPS would take over operation of the site. Based on information from the NPS, CBO estimates that the administrative costs of operating the site would be about \$2 million annually, subject to the availability of appropriated funds.

H.R. 3689 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.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATIONS

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. 3689.

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. 3689, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 3689, as 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 December 3, 2009 Subcommittee hearing on H.R. 3689 follows:

STATEMENT OF KATHERINE H. STEVENSON, ASSISTANT DIRECTOR, BUSINESS SERVICES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on H.R. 3689, a bill to provide for an extension of the legislative authority of the Vietnam Veterans Memorial Fund, Inc.

(the Fund) to establish a Vietnam Veterans Memorial visitor center, and for other purposes.

The Department supports H.R. 3689 as passed by the House.

The visitor center was authorized by Public Law 108–126, signed on November 17, 2003. Following site analysis and the completion of an environmental assessment, the visitor center was approved to be located on the NPS proposed site on the grounds of the Lincoln Memorial, bounded by Constitution Avenue, Henry Bacon Drive, Lincoln Memorial Circle, and 23rd Street, N.W., so long as certain mitigation set forth in design standards developed jointly by the National Capital Planning Commission (NCPA) and the U.S. Commission of Fine Arts (CFA) are met. To protect the sensitive landscape of the site, which includes views to and from the Lincoln Memorial and the Vietnam Veterans Memorial, the design team is responding to these critical design standards and criteria. The criteria have been helpful to move this important commemorative work forward while minimizing potential impacts to the surrounding views and nearby memorials. In addition to public consultation under the National Historic Preservation Act (NHPA), the Commemorative Works Act requires an important series of reviews and approvals by NCPA and CFA. To meet the challenges associated with designing this project on such a sensitive and highly visible site, and the legislative requirement that it be located underground, the NPS and the Fund have made design refinements as needed during this process.

We are pleased to report that significant progress has been made gaining approvals for the design. Furthermore, the NPS believes that the design will be fully approved in a timely fashion and that the visitor center can be completed and open to the public within the additional four years that H.R. 3689 would allow. Without the proposed extension, the Fund's current authority to establish this visitor center will expire on November 17, 2010.

Mr. Chairman, thank you for the opportunity to comment. This concludes my prepared remarks and I will be happy to answer any questions you or other committee members might have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act H.R. 3689 as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 96-297

JOINT RESOLUTION TO AUTHORIZE THE VIETNAM MEMORIAL FUND, INC.,
TO ESTABLISH A MEMORIAL

(July 1, 1980)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Vietnam Veterans Memorial Fund, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia, is authorized to establish a memorial on public grounds in West Potomac Park in the District of Columbia, in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam War.

* * * * *

SEC. 6. VISITOR CENTER.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Vietnam Veterans Memorial Fund, Inc., is authorized to construct a visitor center at or near the Vietnam Veterans Memorial on Federal land in the District of Columbia, or its environs, subject to the provisions of this section, in order to better inform and educate the public about the Vietnam Veterans Memorial and the Vietnam War.

(2) LOCATION.—The visitor center shall be located underground.

(3) CONSULTATION ON DESIGN PHASE.—The Vietnam Veterans Memorial Fund, Inc., shall consult with educators, veterans groups, and the National Park Service in developing the proposed design of the visitor center.

(b) COMPLIANCE WITH STANDARDS APPLICABLE TO COMMEMORATIVE WORKS.—Chapter 89 of title 40, United States Code, shall apply, including provisions related to the siting, design, construction, and maintenance of the visitor center, and the visitor center shall be considered a commemorative work for the purposes of that Act, except that—

(1) final approval of the visitor center shall not be withheld;

(2) the provisions of sections (b) and (c) of section 8908 of title 40, United States Code requiring further approval by law for the location of a commemorative work within Area I and prohibiting the siting of a visitor center within the Reserve shall not apply;

(3) the size of the visitor center shall be limited to the minimum necessary—

(A) to provide for appropriate educational and interpretive functions; and

(B) to prevent interference or encroachment on the Vietnam Veterans Memorial and to protect open space and visual sightlines on the Mall; [and]

(4) the visitor center shall be constructed and landscaped in a manner harmonious with the site of the Vietnam Veterans Memorial, consistent with the special nature and sanctity of the Mall[.] and

(5) any reference in section 8903(e) of title 40, United States Code, to the expiration at the end of or extension beyond a

seven-year period shall be considered to be a reference to an expiration on or extension beyond November 17, 2014.

(c) OPERATION AND MAINTENANCE.—

(1) IN GENERAL.—The Secretary of the Interior shall—

(A) operate and maintain the visitor center, except that the Secretary shall enter into a written agreement with the Vietnam Veterans Memorial Fund, Inc., for specified maintenance needs of the visitor center, as determined by the Secretary; and

(B) as soon as practicable, in consultation with educators and veterans groups, develop a written interpretive plan for the visitor center in accordance with National Park Service policy.

(2) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—Paragraph (1)(A) does not waive the requirements of section 8906(b) of title 40, United States Code, with respect to the visitor center.

(d) FUNDING.—The Vietnam Veterans Memorial Fund, Inc., shall be solely responsible for acceptance of contributions for, and payment of expenses of, the establishment of the visitor center. No Federal funds shall be used to pay any expense of the establishment of the visitor center.