

## GLOBAL WAR ON TERRORISM WAR MEMORIAL ACT

JULY 28, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

### R E P O R T

[To accompany H.R. 873]

The Committee on Natural Resources, to whom was referred the bill (H.R. 873) to authorize the Global War on Terror Memorial Foundation to establish the National Global War on Terrorism Memorial as a commemorative work in the District of Columbia, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of H.R. 873 is to authorize the Global War on Terror Memorial Foundation to establish the National Global War on Terrorism Memorial as a commemorative work in the District of Columbia.

#### BACKGROUND AND NEED FOR LEGISLATION

In response to the terrorist attacks of September 11, 2001, President George W. Bush launched the Overseas Contingency Operations, formally known as the Global War on Terrorism (GWOT).<sup>1</sup> Since 2001, more than five million men and women have served in the U.S. armed forces. All named campaigns (e.g., Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn, etc.) fall under the umbrella of the GWOT.

H.R. 873, would authorize the Global War on Terrorism Memorial Foundation—a 501(c)(3) non-profit organization—to begin the Commemorative Works Act (CWA, 40 U.S.C. 8901 et seq.) process to establish a memorial on federal land in the District of Columbia or its environs to commemorate and honor the members of the

<sup>1</sup>Defense Causality Analysis System, U.S. Department of Defense. Accessed July 5, 2017. [https://www.dmdc.osd.mil/dcas/pages/casualties\\_gwt\\_combined.xhtml](https://www.dmdc.osd.mil/dcas/pages/casualties_gwt_combined.xhtml).

United States Armed Forces who served on active duty in support of the GWOT. In 1986, the CWA was enacted to create a statutory process for the creation, design, and construction of commemorative works in the District of Columbia. The CWA codified procedures for authorizing and siting commemorative works when the potential location of a memorial will be on federal land administered by the National Park Service or the General Services Administration. The CWA delegated responsibility for overseeing design, construction, and maintenance to the Secretary of the Interior or the Administrator of the General Services Administration, and several other federal entities, including the National Capital Planning Commission, the Commission of Fine Arts, and the National Capital Memorial Advisory Commission.

The CWA contains a specific requirement for military commemoratives. For military works, the CWA requires Congress to consider legislation only for the commemoration of “a war or similar major military conflict or a branch of the armed forces” that has been designated as officially ended for at least 10 years (40 U.S.C. 8903(b)). The Global War on Terrorism Memorial Act waives this requirement of the CWA, thus authorizing the Global War on Terror Memorial now, rather than ten years following the end of the GWOT. Proponents of the proposed memorial argue that as the longest conflict ever fought by the United States, the GWOT should be memorialized while veterans have an opportunity to take part in determining the memorial’s scope and design. Proponents note that many World War II veterans never had the chance to see the World War II Memorial completed, because it was not finished until 59 years after the end of the war. Similarly, the World War I Memorial was not authorized until 2014, nearly 96 years after the Treaty of Versailles was signed.<sup>2</sup> Additionally, supporters advocate that because the nature of war has changed, the CWA should be amended to allow for more timely military commemorations. Opponents of the proposed memorial argue that while the GWOT Memorial was a subject deserving of a memorial, the intent of the CWA was to allow for a war or military conflict to be declared over for at least 10 years prior to commemoration efforts. Additionally, opponents cite the precedent of providing an exemption to CWA provisions and whether granting an exemption to one group might set a precedent for future groups to seek a similar exemption.

On October 4, 2016, the National Capital Memorial Advisory Commission met to discuss H.R. 5999 (114th Congress), a bill similar to H.R. 873, introduced by former Congressman Ryan Zinke (R-MT). The Commission heard testimony in support of the legislation from Representative Zinke, as well as from Mr. Andrew Brennen, Executive Director of the Global War on Terror Memorial Foundation, and Mr. Todd Bowers, a Board Member of the Foundation. At the meeting, the Commission did not reach a consensus view on the legislation. Some Commissioners noted that it was the obligation of the Commission to recommend opposition to the bill because the conflict is ongoing and thus inconsistent with the CWA. Other Commissioners noted that the nature of warfare has changed over the years that the CWA has been in place, and that modern con-

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<sup>2</sup>Public Law 113–291, Section 3091 (Dec. 19, 2014).

licts may not have distinct end dates, making it difficult for memorials to these conflicts to comply with the CWA.

#### COMMITTEE ACTION

H.R. 873 was introduced on February 6, 2017, by Congressman Mike Gallagher (R-WI). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On July 14, 2017, the Subcommittee held a hearing on the bill. On July 25, 2017, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by unanimous consent on July 26, 2017.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has requested but not yet received a cost estimate for the bill from the Director of the Congressional Budget Office. However, the bill specifically bans the use of federal funds for the memorial. In addition, the Congressional Budget Office has concluded that similar bills authorizing private groups to raise money to construct memorials in DC would have an insignificant effect on the federal budget. *See* H.R. 503 (113th Congress); S. 230 (113th Congress); and H.R. 497 (110th Congress).

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the Global War on Terror Memorial Foundation to establish the National Global War on Terrorism Memorial as a commemorative work in the District of Columbia.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be du-

plicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

