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106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-436

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

SEPTEMBER 28 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

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

REPORT

[To accompany H.R. 4115]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 4115) to authorize appropriations for the United States Holocaust Memorial Museum, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 4115 is to authorize appropriations for the United States Holocaust Memorial Museum.

BACKGROUND AND NEED

The U.S. Holocaust Memorial Council was created by Public Law 96-388 to plan, construct, and oversee the operation of a permanent living memorial museum to the victims of the Holocaust; to provide for appropriate ways for the Nation to commemorate the Days of Remembrance as an annual national civic commemoration of the Holocaust, and; to develop a plan for carrying out the 1979 recommendations of the President's Commission on the Holocaust.

The U.S. Holocaust Memorial Museum was completed in 1993 and is located near the National Mall in Washington, D.C. The Museum strives to broaden public understanding of the history of the Holocaust through multifaceted programs including: exhibitions; research and publication; collecting and preserving material evidence, art, and artifacts relating to the Holocaust; annual Holocaust commemorations known as the Days of Remembrance; distribution of educational materials; and a variety of public programming on the Holocaust and related issues.

Public Law 96-388 authorized appropriations for the U.S. Holocaust Memorial Council through fiscal year 1983. Funding in subsequent years was provided through appropriation acts, and Public Law 102-529 extended the authorization through fiscal year 2000. A significant portion of the funding for the Museum comes from private donations.

H.R. 4115 provides permanent authorization language for the United States Holocaust Memorial Council and for the Museum.

LEGISLATIVE HISTORY

H.R. 4115 passed the House of Representatives on September 7, 2000. A similar bill, S. 2598, was introduced by Senators Bingaman, Murkowski, and others on May 18, 2000. The Subcommittee on National Parks, Historic Preservation and Recreation held a hearing on S. 2598 on July 13, 2000. At the business meeting on September 20, 2000, the Committee on Energy and Natural Resources ordered H.R. 4115 favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on September 20, 2000, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 4115.

SECTION-BY-SECTION ANALYSIS

Section 1 amends chapter 23 of title 36, United States Code. The amendment changes the title of the chapter from “United States Holocaust Memorial Council” to “United States Holocaust Memorial Museum.”

Section 2301 establishes that the United States Holocaust Memorial Museum (Museum) is an independent establishment of the United States Government, and describes the purposes of the Museum.

Section 2302(a) states that the United States Holocaust Memorial Council is the board of trustees of the Museum and has overall governance responsibility for the Museum. The Council must establish an Executive Committee to manage the Museum when the Council is not in session.

Subsection 2302(b) describes the composition of the Council.

Subsection 2302(c) describes the terms of office for the members of the Council.

Subsection 2302(d) states that the Chairperson and Vice Chairperson will be appointed by the President from among the members of the Council and will serve five year terms.

Subsection 2302(e) allows members whose terms have expired to be reappointed, and allows the Chairperson and Vice Chairperson to be reappointed to those offices.

Subsection 2302(f) requires the Council to establish bylaws to carry out its functions, and authorizes the Chairperson to waive a bylaw when it is in the best interest of the Council. The Chairperson must notify the other members of the Council of the waiver, which becomes final 30 days after the notice is sent, unless a majority of the members disagree.

Subsection 2302(g) states that one-third of the members of the Council will constitute a quorum.

Subsection 2302(h) allows the Chairperson to appoint persons who are not Council members to committees associated with the Council.

Section 2303 authorizes members of the Council to be paid the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule for each day they are engaged in the performance of duties for Council. Members of the Council are also authorized to be compensated for travel expenses.

Section 2304 authorizes the Museum to obtain the services of experts and consultants, enter into contracts and other arrangements, and obtain assistance from the Smithsonian Institution, the Library of Congress, and all executive branch agencies and establishments. The Secretary of the Interior may provide administrative services and support on a reimbursable basis.

Section 2305(a) requires the Chairperson of the Council to appoint, subject to confirmation by the Council, a Director of the Museum to serve as its chief executive officer. The Director may be paid with appropriated funds or non-appropriated funds. If paid with appropriated funds the rate of pay will be the same as for level IV of the Executive Schedule.

Subsection (b) authorized the Director to appoint employees in the competitive service, and to appoint up to three employees who may be compensated at level IV of the Executive Schedule.

Section 2306 requires the Museum to maintain insurance in such amounts as it deems necessary.

Section 2307 authorizes the Museum to solicit and accept gifts, bequests, and devises of property to aid in the operation and maintenance of the Museum.

Section 2308 requires the Director to submit to Congress an annual report on the Museum.

Section 2309 provides for audits of the Museum's financial transactions by the Comptroller General as requested by Congress.

Section 2310 authorizes the appropriation of such sums as are necessary to carry out the purposes of the legislation. Notwithstanding any other provisions of law, none of the funds are to be used for construction.

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 22, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4115, an act to authorize appropriations for the United States Holocaust Memorial Museum, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4115—An act to authorize appropriations for the United States Holocaust Memorial Museum, and for other purposes

Summary: H.R. 4115 would move day-to-day responsibility for maintaining and operating the United States Holocaust Memorial Museum from the Holocaust Memorial Council to the museum, with the council serving as the museum's board of trustees. In addition, the legislation would authorize the appropriation of such sums as are necessary each year to the museum. The museum received an appropriation of \$33.3 million in 2000. CBO estimates that implementing H.R. 4115 would cost \$168 million over the 2001–2005 period, assuming appropriation of the necessary amounts.

Because the legislation would allow the museum to spend certain receipts, pay-as-you-go procedures would apply. Based on information from the museum, CBO estimates the annual increase in direct spending from enacting H.R. 4115 would be negligible. H.R. 4115 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4115 is shown in the following table. This estimate assumes that the necessary amounts will be appropriated and that spending will occur at historical rates. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION ¹						
Museum spending under current law:						
Budget authority ²	33	0	0	0	0	0
Estimated outlays	33	10	2	0	0	0
Proposed changes:						
Estimated authorization level ³	0	34	35	36	37	38
Estimated outlays	0	24	33	36	37	38
Museum Spending Under H.R. 4115:						
Estimated authorization level	33	34	35	36	37	38
Estimated outlays	33	34	35	36	37	38

¹ By allowing the museum to retain and spend certain receipts, the legislation also would affect direct spending. CBO estimates that the increase in such spending would be negligible each year.

² The 2000 level is the amount appropriated for that year.

³ The tables shows CBO projections of spending for the museum with annual adjustments for anticipated inflation. CBO estimates that spending for the museum would cost about \$153 million over the 2001–2005 period without such adjustments, reflecting an authorization of \$33 million each year.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act specifies pay-as-you-go procedures for legislation affecting direct spending and receipts. These procedures would apply to H.R. 4115 because it would allow the museum to retain and spend certain receipts, such as the fee it charges for photocopying noncopyrighted materials. However, based on information from the museum, CBO estimates that the annual increase in such spending would be negligible.

Intergovernmental and private-sector impact: H.R. 4115 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: John R. Righter.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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. 4115. 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. 4115, as ordered reported.

EXECUTIVE COMMUNICATIONS

On July 17, 2000, the Committee on Energy and Natural Resources requested legislative reports from the United States Holocaust Memorial Museum and the Office of Management and Budget setting forth Executive agency recommendations on S. 2598, a bill similar to H.R. 4115. These reports had not been received at the time the report on H.R. 4115 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 testimony provided by the United States Holocaust Memorial Museum at the Subcommittee hearing follows:

STATEMENT BY SARA J. BLOOMFIELD, DIRECTOR OF THE UNITED STATES HOLOCAUST MEMORIAL MUSEUM

Mr. Chairman, Members of the Subcommittee, it is an honor to report to you today on the accomplishments of the United States Holocaust Memorial Museum and to ask for your support as we continue our critical mission into the 21st century. I would like to thank the Chairman for calling this hearing, and the Chairman and ranking member of the full Committee for sponsoring S. 2598. Your efforts on the Museum's behalf have been invaluable.

The United States Holocaust Memorial Museum has just marked its seventh anniversary, but in these few short years the exceptional resonance of the Museum has enabled it to play a much larger role in American life than its founders could have imagined. In addition to approximately two million visitors each year, the Museum has hosted over 2,000 foreign officials from 130 countries as well as 62 heads of state. But its most important visitors remain the hundreds of thousands of school children from all across the nation who come each year with their parents, teachers, and community organizations.

Even though the Museum opened to extraordinary popularity and overwhelming public demand, with each year the institution's potential is more fully realized as its service to the nation is continually expanded in increasingly more meaningful ways. In its relatively brief existence, the Museum has made substantial progress towards realizing its guiding principle that remembering and understanding the Holocaust can make valuable contributions to our pluralistic democracy. And, by extending our educational impact beyond Washington to reach the millions of Americans who may never visit their national capital, the Museum has begun to fulfill its truly nationwide mission as envisioned in its original Congressional mandate.

The Museum's public-private partnership, first articulated in the enabling legislation, is central to the institution's success. Built with private funds on federal land, the Museum operates with a combination of federal appropriations and substantial private support. It is through the effectiveness of this partnership that the Museum has been able to respond to the enormous demand for its programs, and services. To date, the Museum has welcomed over 14 million visitors and annually serves several hundred thousand through traveling exhibitions and over two million "visitors" to its website.

This popularity and success, while heartening, must not be cause for complacency. We know from research that there is much work to be done. A major national study commissioned by the Museum indicates that 80% of Americans believe the Holocaust is extremely or very important in learning the lessons of history. Two out of three Americans say they want to learn more about the Holocaust, and the percentage is even higher for minorities. 69% of Americans state that they want to visit the Museum. This data corresponds to the Museum's experience that every pilot project tends to generate more demand that can be accommodated.

The institution's service and success, now and in the future, extend well beyond Washington. The Museum is at the center of a national program of remembrance and education. In addition to the national, annual Days of Remembrance commemoration held in the Capitol Rotunda, every year all 50 states, hundreds of communities and civic and religious organizations sponsor their own ceremonies for the victims of the Holocaust. The Museum's fellowship opportunities, teacher training, curricular resources, publications, website, regional programming, and other outreach activities reduce the barriers imposed by geographical distance and bring the latest findings in scholarship and pedagogy to all localities. And, its new traveling exhibitions program—made possible through private funding—has already taken exhibitions to 26 cities in 15 states. These traveling shows include exhibitions on the 1936 Berlin Olympics; the story of Varian Fry, an American who rescued thousands trapped in Vichy France; and the children of the Holocaust.

Exhibitions and related programs are the most visible means by which the general public has access to the Museum. Three traveling exhibitions visited 10 states in 1999, while three other special exhibitions were on view at the Museum, both accompanied by related educational activities. The Museum's long-range exhibition plan is designed to ensure that its programming is thoughtful, balanced, and can best serve the needs of the diverse American public. It also allows the Museum to take maximum advantage of its expertise, resources and opportunities.

The collections are the foundation for all of the Museum's activities. They serve as the basis for exhibitions, educational programming, and scholarly research. The Museum now houses the world's most comprehensive collection of Holocaust documentation and is used as a resource by scholars from all over the world. The holdings include 12 million pages of archival documents, 65,000 photographic images, 420 hours of historical film footage, 35,000 artifacts, and more than 6,200 oral histories. The Museum's library has over 30,000 volumes in 18 languages. Reference services for the library, archives and photo archives exceed 17,000 requests annually.

Additions to the Museum's collections are prioritized according to gaps in the holdings, exhibition plans, and the current window of opportunity while the eyewitnesses are still alive and political situations in various countries afford access to important collections. Because of the international nature of this event, documentation of the Holocaust is scattered throughout the world and is often in poor condition. The Museum's attempt to acquire this material now is important not only to amass this documentation in one central location but also to insure its long-term preservation and accessibility.

National educational outreach, including teacher training and programs for secondary schools, are core activities of the Museum. The Museum provides resource materials, technical assistance, and formal training to 25,000 educators annually. For example, the Arthur and Rochelle Belfer National Conference annually brings together 400 teachers with little or no experience teaching the Holocaust. At the other end of the spectrum, the Mandel Fellowship Program is designed for very experienced educators. Its purpose is to provide advanced training to a group of highly skilled teachers who can serve as leaders of Holocaust education in their own communities. In this way, the Museum can leverage its impact and maximize the value of its resources.

The Museum's educational efforts are not limited to teachers and students in traditional classroom settings. Recently, the Museum embarked on a series of programs for various professionals. Special programs at the Museum include those for various police departments in the Washington metropolitan area, the U.S. Naval Academy, the U.S. Military Academy, the Federal Bureau of Investigation, and the Foreign Service. The leaders of these organi-

zations recognize that an understanding of Holocaust history provides an invaluable perspective on many issues and situations central to their work. Interest in these programs is growing, and the Museum is working hard to meet the demand.

Through programs such as “Bringing the Lessons Home” the Museum reaches out to underserved audiences. In 1994, the Museum launched “Bringing the Lessons Home,” originally funded with a five-year grant from the Fannie Mae Foundation, to work on an in-depth basis with teachers and students in Washington area public schools. Five years later, the program has dramatically exceeded its own goals and expectations. Well over 13,000 students and 700 teachers have participated to date. Nearly 200 students pursued further study through an optional 11-week after-school course at the Museum that culminates in the students conducting guided tours of the Permanent Exhibition that culminates in the students conducting guided tours of the Permanent Exhibition for family members, friends, and community leaders. Many participants have continued and expanded their relationship with the Museum, becoming Museum interns and leading other students and peers through the exhibitions.

The Museum also has a strong commitment to families, recognizing the challenges and sensitivity of introducing this subject to younger audiences. A special exhibition, *Remember the Children: Daniel’s Story*, is a environmental, hands-on, interactive presentation geared specifically to children ages 8 and up. Created with the assistance of child specialists and tested for several years before the Museum opened, a permanent version of this exhibition is on view on the Museum’s first floor. Special programming, teacher training, and resource materials were developed to enhance the exhibit’s educational potential. As a result of its popularity not only with younger visitors but adults as well, a traveling version has been touring the country for the past few years.

Students are active users on the Museum’s website, which includes special exhibits and curricular resources designed for the secondary school level. But they represent only a portion of the more than 50,000 weekly “visitors” to the website, which is quickly becoming the busiest “entrance” to the Museum. This number has been steadily increasing and we expect the trend to continue since, according to our quarterly visitor surveys, over 90% of Museum visitors use the internet. We have responded to this demand by augmenting the educational programming available on the website and providing access to the Museum’s rich resources. The public can now “visit” various special web exhibitions; download Museum publications and educational resources; search the Museum’s archival, photographic, and library holdings; and will soon have access to the multi-media Learning Center. The development of the Museum’s NameSearch system has linked the Survivors Registry to other Museum resources and eventually will

include links to resources in other institutions. Ultimately this novel system will fundamentally change the potential for researching the fate of individuals. The Museum has also developed an innovative geographical information system that permits integrated access to the Museum's content through the search of geographic terms.

While most of the Museum's educational programming is targeted to students, teachers, and families, the Museum's Center for Advanced Holocaust Studies is critical since scholarship provides the basis for understanding this relatively recent history. The Center seeks to stimulate scholarship, promote the growth of Holocaust studies at American universities, and ensure the training of future generations of scholars. In 2000–2001, the Center will host 22 visiting fellows, mostly funded through private grants. Three seminars for faculty teaching college-level Holocaust courses will serve 56 faculty members from 55 institutions in 28 states. The Center also sponsors publications and a vigorous program of lectures, symposia and conferences. The Historian's Office responds to approximately 700 research requests annually, many from other governmental entities, such as Congress and Federal agencies.

Recently, at the request of the House Appropriations Subcommittee on Interior and Related Agencies, the Museum underwent an independent study performed by the National Academy of Public Administration (NAPA). In fact, language in the FY2000 Interior and Related Agencies Appropriations bill conference report strongly urges the inclusion of NAPA legislative recommendations in the reauthorization request.

Released in the summer of 1999, the NAPA study includes recommendations that address three major areas: statutory authority, governance, and management. The NAPA Study came at an opportune time since the Museum was itself in the midst of self-study regarding these same issues. Most of the report's recommendations have been or will be adopted over the course of the next year. For example, in December 1999 the Council adopted a new governance plan, and the new director has begun to strengthen accountability, management practices, administrative systems, and long-range planning.

Our reauthorization request includes legislative changes that reflect the Council's own assessment of its needs and incorporates several recommendations from NAPA as well. The reauthorization request makes five changes to 36 U.S.C. Chapter 23.

First, in accordance with NAPA's recommendation to "establish the United States Holocaust Memorial Museum as the institution with primary responsibility" for the mandates of the original legislation, we propose to modify Section 2301. The original language established the U.S. Holocaust Memorial Council with the primary responsibility for fulfilling the Congressional mandates. This was necessary during the period before the Museum existed when the Council's mandate was to raise funds for and build the

Museum. Now that the Museum has been built, operational responsibilities are more appropriately a staff function. This change is consistent with the other Federal cultural institutions.

Second, in accordance with NAPA's recommendation to "establish the Council as a board of directors of the Museum, with the relationship to the Museum and governance functions normally associated with a board specified," We propose to modify Section 2302. This makes the Council a board of directors with institutional oversight at a governance level, consistent with the other Federal cultural institutions.

Third, in accordance with NAPA's recommendation to "make the director the chief executive officer of the Museum," We propose to modify Section 2305. This is consistent with the definition of the board being responsible for governance of the institution while the director is responsible for operations and management.

Fourth, the Museum operates as a public-private partnership, with the Federal government having responsibility for operations of the Museum facilities and basic programs, and the private sector support responsible for programmatic growth and national outreach. Consistent with the nature of that partnership and the Museum's desire to be able to respond to more of the demands for its services within current resources, the reauthorization request contains the authority to retain and expend revenue generated from activities such as fees to borrow traveling exhibitions and reproduce historic photographs. These fees will enable the Museum to provide these services without utilizing scarce resources from either the Federal or privately-funded budget and is consistent with the similar authority granted to the Smithsonian Institution and National Archives. This change is requested in Section 2307, the section which already permits the Museum to raise private funds for the purposes mandated by Congress.

Fifth, the final change requested is that for permanent authorization for appropriations, as indicated in Section 2310. The presence of permanent authorization for appropriations would signify that the Museum is now an integral part of the capital city. Consistent with the changes enumerated above, this change also establishes parity of status with the other cultural establishments on the Mall, the Smithsonian Institution and the National Gallery of Art, and affirms that the institution is the "permanent living memorial museum," as was stated in the enabling legislation. To this nation's rapidly declining population of Holocaust survivors and American soldiers who liberated the camps and to their families, permanent authorization conveys that the memorial here today will be here forever. They deserve no less. As do the more than half a million school children who visit the Museum each year.

Further, permanent authorization for appropriations will facilitate fundraising and this in turn will enhance the institution's ability to function as a public-private partner-

ship. The U.S. Holocaust Memorial Council, since its establishment, has raised over \$320 million, and for donors it has always been important that they are giving to this nation's permanent memorial to the victims of Holocaust, sharing this responsibility with the federal government.

Along with the other enumerated improvements to the Museum's authorization, fundamental to the long-term vitality of the institution is its status as a public-private partnership. Since the Museum opened seven years ago, the private component of the annual operating budget has grown from \$11 million in FY 1994 to \$21 million in FY 2000, an increase of 91%. Private donations now provide 40% of the annual budget. Federal appropriations cover the costs of operating the facility and core programs; private support enables the Museum to sponsor educational outreach, traveling exhibitions nationwide and scholarly activities. In addition, the Museum raises private, restricted funds to support specific programs. For example, during FY 2000, the Museum will spend—over and above the base budget—more than \$2 million in restricted funds, dedicated to particular programs in education, exhibitions, and scholarship, bringing the total private annual spending to over \$23 million.

Because the programs and services are so dependent on this substantial level of private support, the Museum is concerned about insuring a secure financial future for the institution. Even though the Museum has a large membership—approximately 220,000—raising such significant funds every year is a constant challenge and will become increasingly more difficult as the Holocaust recedes in time. Therefore, to protect the private support for the basic programs and to enable future growth, the Museum is in the process of establishing an endowment campaign. The Museum's current endowment is approximately \$80 million. While the campaign itself is still being developed, we anticipate an initial goal of at least \$250 million. This reauthorization is vital to the Museum's fundraising efforts. As individual Americans contemplate their role in this public-private partnership, the clear and unequivocal statement of permanent authorization provides that critical margin of difference for many donors who are confronted with numerous opportunities for underwriting good works.

In conclusion, the United States Holocaust Memorial Museum is well placed to carry out its mission of education and remembrance in this new century. As the last century drew to a close, ethnic cleansing was taking place in Europe and in the 55 years since the Holocaust, the mid-century vow of "Never Again" has been repeatedly forgotten. Holocaust education is as important as ever as each generation has to learn anew the lessons of this immense tragedy for humanity. Understanding the past for the sake of a better future is the fundamental principle of the Museum's mission, and the growing interest in Holocaust education reflects the importance and resonance of

that mission for people form every walk of life. It is both a privilege and challenge to fulfill this mission in ways that are meaningful for all Americans, and our continued success will always depend on the combined efforts of the public-private partnership. We are grateful for the strong support the Museum has received from every Administration and every Congress since the original legislation passed in 1980. We look forward to continued support and thank you for this opportunity to share the accomplishments of this unique federal institution. I have submitted a copy of the Museum's latest statistics to be included with this statement. I would be pleased to answer any of the Committee's questions.

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 bill H.R. 4115, 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):

[CHAPTER 23—UNITED STATES HOLOCAUST MEMORIAL COUNCIL

Sec.

- [2301.** Establishment and purposes.
- [2302.** Membership.
- [2303.** Executive Director.
- [2304.** Gifts, bequests, and devises of property.
- [2305.** Memorial museum.
- [2306.** Audits.
- [2307.** Administrative.
- [2308.** Annual report.
- [2309.** Authorization of appropriations.

[§ 2301. Establishment and purposes

[The United States Holocaust Memorial Council is an independent establishment of the United States Government. The Council shall—

[(1) provide for appropriate ways for the Nation to commemorate the Days of Remembrance as an annual, national, civic commemoration of the Holocaust;

[(2) encourage and sponsor appropriate observances of the Days of Remembrance throughout the United States;

[(3) plan, construct, and operate a permanent living memorial museum to the victims of the Holocaust in cooperation with the Secretary of the Interior and other departments, agencies, and instrumentalities of the United States Government as provided in section 2305 of this title [36 U.S.C.A. § 2305]; and

[(4) develop a plan for carrying out the recommendations of the President's Commission on the Holocaust in its report to the President of September 27, 1979, to the extent the recommendations are not otherwise provided for this chapter [36 U.S.C.A. § 2301 et seq.].

§ 2302. Membership

[(a) COMPOSITION.—(1) The United States Holocaust Memorial Council consists of 65 voting members and the following ex officio nonvoting members:

[(A) one appointed by the Secretary of the Interior.

[(B) one appointed by the Secretary of State.

[(C) one appointed by the Secretary of Education.

[(2) Of the 65 voting members.—

[(A) the President of the United States appoints 55;

[(B) the Speaker of the House of Representatives appoints five from among members of the House of Representatives; and

[(C) the President pro tempore of the Senate appoints five, on the recommendation of the majority and minority leaders, from among members of the Senate.

[(b) Terms of office.—(1) Except as provided in this subsection, Council members serve for terms of 5 years.

[(2) The terms of the five members of the House of Representatives and the five members of the Senate appointed during a term of Congress expire at the end of that term of Congress.

[(c) CHAIRMAN AND VICE CHAIRPERSON.—The President of the United States shall appoint the Chairperson and Vice Chairperson of the Council from among the members of the Council. The Chairperson and Vice Chairperson serve for terms of 5 years.

[(d) VACANCIES.—(1) A vacancy on the Council shall be filled in the same manner as the original appointment was made.

[(2) A member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term. A member, except a Member of Congress appointed by the Speaker of the House of Representatives or the President pro tempore of the Senate, may serve after the expiration of a term until a successor takes office.

[(3) The President of the United States fills a vacancy in the offices of the Chairperson and Vice Chairperson.

[(e) REAPPOINTMENT.—A member whose term expires may be reappointed. The Chairperson and Vice Chairperson may be reappointed to those offices.

[(f) PAY AND EXPENSES.—(1) Except as provided in paragraph (2) of this subsection, members of the Council may be paid the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5 [5 U.S.C.A. § 5376] for each day (including traveltime) during which they perform duties of the Council. A member is entitled to travel expenses, including a per diem allowance, as provided under section 5703 of title 5 [5 U.S.C.A. § 5703], United States Code.

[(2) Members who are full-time officers or employees of the United States Government or Members of Congress may not receive additional pay because of their service on the Council.

[(g) ASSOCIATED COMMITTEES.—Subject to appointment by the Chairperson, an individual who is not a member of the Council may be designated as a member of a committee associated with the Council. The individual serves without cost to the Government.

§ 2303. Executive Director

[(a) APPOINTMENT AND PAY.—The Chairperson of the United States Holocaust Memorial Council shall appoint an Executive Director, subject to confirmation by the Council. The Executive Director may be paid with nonappropriated funds. However, if the Executive Director is paid with appropriated funds, the rate of pay shall be a rate that is not more than the maximum rate of basic pay payable under section 5376 of title 5 [5 U.S.C.A. § 5376], United States Code. The Executive Director serves at the pleasure of the Council.

[(b) DUTIES AND POWERS.—The Executive Director may—

[(1) appoint employees in the competitive service subject to chapter 51 [5 U.S.C.A. § 5101 et seq.] and subchapter III of chapter 53 [5 U.S.C.A. § 5331 et seq.] of title 5, United States Code;

[(2) appoint and fix the compensation (at a rate that is not more than the maximum rate of basic pay payable under section 5376 of title 5, United States Code) of not more than three employees, notwithstanding any other law; and

[(3) implement decisions of the Council, in the manner the Council directs, and carry out other functions the Council, the Executive Committee of the Council, or the Chairperson assigns.

§ 2304. Gifts, bequests, and devises of property

[(a) GENERAL.—The United States Holocaust Memorial Council may solicit, accept, own, administer, invest, and use gifts, bequests, and devises of property to aid or facilitate the construction, maintenance, and operation of the memorial museum. The property and the proceeds of the property shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating the property. Funds donated to and accepted by the Council under this section are not considered appropriated funds and are not subject to any requirements or restrictions applicable to appropriated funds.

[(b) TAX TREATMENT.—For the purposes of Federal income, estate, and gift taxes, property accepted under this section is deemed to be a gift, bequest, or devise to the United States Government.

§ 2305. Memorial museum

[(a) TRANSFER OR PURCHASE OF REAL PROPERTY IN THE DISTRICT OF COLUMBIA.—For the purpose of establishing the memorial museum, and with the approval of the Secretary of the Interior in consultation with the Commission of Fine Arts and the National Capital Planning Commission—

[(1) a department, agency, or instrumentality of the United States Government may transfer to the administrative jurisdiction of the United States Holocaust Memorial Council, any real property in the District of Columbia that is under the administrative jurisdiction of the department, agency, or instrumentality and that the Council considers suitable for the memorial museum; and

[(2) the Council may purchase, with the consent of the owner, any real property within the District of Columbia that the Council considers suitable for the memorial museum.

[(b) ARCHITECTURAL DESIGN APPROVAL.—The architectural design for the memorial museum is subject to the approval of the Secretary of the Interior, in consultation with the Commission of Fine Arts and the National Capital Planning Commission.

[(c) INSURANCE.—The Council shall maintain insurance on the memorial museum to cover the risks, in the amount, and containing the terms the Council considers necessary.

[§ 2306. Audits

[When requested by Congress, the Comptroller General shall audit financial transactions of the United States Holocaust Memorial Council, including those involving donated funds, under generally accepted auditing standards. The Council shall make available for an audit under this section all records, items, or property used by the Council that are necessary for the audit. The Council shall provide facilities for verifying transactions with the balances.

[§ 2307. Administrative

[(a) BYLAWS.—(1) The United States Holocaust Memorial Council shall adopt bylaws to carry out its functions under this chapter [36 U.S.C.A. § 2301 et seq.].

[(2) The Chairperson of the Council may waive a bylaw when the Chairperson decides the waiver is in the best interest of the Council. Immediately after waiving a bylaw, the Chairperson shall send written notice to every voting member of the Council. The waiver becomes final 30 days after the notice is sent unless a majority of Council members disagrees in writing before the end of the 30-day period.

[(b) QUORUM.—One-third of the members of the Council is a quorum. A vacancy in the Council does not affect its power to function.

[(c) EXPERTS AND CONSULTANTS.—The Council may procure the temporary or intermittent services of experts or consultants under section 3109 of title 5 [5 U.S.C.A. § 3109], United States Code, at rates that are not more than the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5 [5 U.S.C.A. § 5376], United States Code.

[(d) CONTRACT AUTHORITY.—In accordance with applicable law, the Council may make contracts or other arrangements with public agencies or authorities and with private organizations and persons and may make payments necessary to carry out its functions under this chapter [36 U.S.C.A. § 2301 et seq.].

[(e) ASSISTANCE FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS, AGENCIES, AND INSTRUMENTALITIES.—The Secretary of the Smithsonian Institution, the Library of Congress, and all departments, agencies, and instrumentalities in the executive branch of the United States Government may assist the Council in carrying out its functions under this chapter [36 U.S.C.A. § 2301 et seq.].

[(f) ADMINISTRATIVE SERVICES AND SUPPORT.—The Secretary of the Interior may provide administrative services and support to the Council on a reimbursable basis.

[§ 2308. Annual Report

Each year, the Executive Director of the United States Holocaust Memorial Council shall submit to Congress a report on the Executive Director's stewardship of the authority to construct, maintain, and operate the memorial museum, including an accounting of all financial transactions involving donated funds.

[§ 2309. Authorization of appropriations

[(a) GENERAL.—Amounts necessary to carry out this chapter [36 U.S.C.A. § 2301 et seq.] are authorized to be appropriated for each of the fiscal years ending September 30, 1997–2000. Notwithstanding any other law, necessary amounts are authorized to be appropriated to the Council to obtain, from a private insurance carrier, insurance against loss in connection with the memorial museum and related property and exhibits.

[(b) USE OF AMOUNTS FOR CONSTRUCTION BARRED.—Amounts authorized under this chapter [36 U.S.C.A. § 2301 et seq.] may not be used for construction.

[(c) PRIOR AUTHORITY REQUIRED.—Authority to make contracts and to make payments under this chapter [36 U.S.C.A. § 2301 et seq.], using amounts authorized to be appropriated under this section, are effective only to the extent, and in amounts, provided in advance in an appropriations law.]

**CHAPTER 23—UNITED STATES HOLOCAUST MEMORIAL
MUSEUM**

Sec.

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

2302. *Functions of the Council; membership.*

2303. *Compensation; travel expenses; full-time officers or employees of United States or Members of Congress.*

2304. *Administrative provisions.*

2305. *Staff.*

2306. *Insurance for museum.*

2307. *Gifts, bequests, and devises of property; tax treatment.*

2308. *Annual report.*

2309. *Audit of financial transactions.*

2310. *Authorization of appropriations.*

SEC. 2301. ESTABLISHMENT OF THE UNITED STATES HOLOCAUST MEMORIAL MUSEUM; FUNCTIONS.

The United States Holocaust Memorial Museum (hereafter in this chapter referred to as the “Museum”) is an independent establishment of the United States Government. The Museum shall—

(1) provide for appropriate ways for the Nation to commemorate the Days of Remembrance, as an annual, national, civic commemoration of the Holocaust, and encourage and sponsor appropriate observances of such Days of Remembrance throughout the United States;

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

(3) carry out the recommendations of the President's Commission on the Holocaust in its report to the President of September 27, 1979, to the extent such recommendations are not otherwise provided for in this chapter.

SEC. 2302. FUNCTIONS OF THE COUNCIL; MEMBERSHIP.

(a) *IN GENERAL.*—The United States Holocaust Memorial Council (hereafter in this chapter referred to as the “Council”) shall be the board of trustees of the Museum and shall have overall governance responsibility for the Museum, including policy guidance and strategic direction, general oversight of Museum operations, and fiduciary responsibility. The Council shall establish an Executive Committee which shall exercise ongoing governance responsibility when the Council is not in session.

(b) *COMPOSITION OF COUNCIL; APPOINTMENT; VACANCIES.*—The Council shall consist of 65 voting members appointed (except as otherwise provided in this section) by the President and the following *ex officio nonvoting members*:

- (1) One appointed by the Secretary of the Interior.
- (2) One appointed by the Secretary of State.
- (3) One appointed by the Secretary of Education.

Of the 65 voting members, five shall be appointed by the Speaker of the United States House of Representatives from among Members of the United States House of Representatives and five shall be appointed by the President *pro tempore* of the United States Senate upon the recommendation of the majority and minority leaders from among Members of the United States Senate. Any vacancy in the Council shall be filled in the same manner as the original appointment was made.

(c) *TERM OF OFFICE.*—

(1) Except as otherwise provided in this subsection, Council members shall serve for 5-year terms.

(2) The terms of the five Members of the United States House of Representatives and the five Members of the United States Senate appointed during any term of Congress shall expire at the end of such term of Congress.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member, other than a Member of Congress appointed by the Speaker of the United States House of Representatives or the President *pro tempore* of the United States Senate, may serve after the expiration of his term until his successor has taken office.

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

(e) *REAPPOINTMENT.*—Members whose terms expire may be reappointed, and the Chairperson and Vice Chairperson may be reappointed to those offices.

(f) *BYLAWS.*—The Council shall adopt bylaws to carry out its functions under this chapter. The Chairperson may waive a bylaw when the Chairperson decides that waiver is in the best interest of the Council. Immediately after waiving a bylaw, the Chairperson shall send written notice of the waiver to every voting member of the Council. The waiver becomes final 30 days after the notice is sent unless a majority of Council members disagree in writing before the end of the 30-day period.

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

(h) **ASSOCIATED COMMITTEES.**—*Subject to appointment by the Chairperson, an individual who is not a member of the Council may be designated as a member of a committee associated with the Council. Such an individual shall serve without cost to the Federal Government.*

SEC. 2303. COMPENSATION; TRAVEL EXPENSES; FULL-TIME OFFICERS OR EMPLOYEES OF UNITED STATES OR MEMBERS OF CONGRESS.

(a) **IN GENERAL.**—*Except as provided in subsection (b) of this section, members of the Council are each authorized to be paid the daily equivalent of the annual rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5, for each day (including travel time) during which they are engaged in the actual performance of duties of the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5.*

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

SEC. 2304. ADMINISTRATIVE PROVISIONS.

(a) **EXPERTS AND CONSULTANTS.**—*The Museum may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, at rates not to exceed the daily equivalent of the annual rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5.*

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

(c) **ASSISTANCE FROM OTHER FEDERAL DEPARTMENTS AND AGENCIES.**—*The Secretary of the Smithsonian Institution, the Library of Congress, and the heads of all executive branch departments, agencies, and establishments of the United States may assist the Museum in the performance of its functions under this chapter.*

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

SEC. 2305. STAFF.

(a) **ESTABLISHMENT OF THE MUSEUM DIRECTOR AS CHIEF EXECUTIVE OFFICER.**—*There shall be a director of the Museum (hereafter in this chapter referred to as the 'Director') who shall serve as chief executive officer of the Museum and exercise day-to-day authority for the Museum. The Director shall be appointed by the Chairperson of the Council, subject to confirmation of the Council. The Director may be paid with nonappropriated funds, and, if paid with appropriated funds shall be paid the rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5. The*

Director shall report to the Council and its Executive Committee through the Chairperson. The Director shall serve at the pleasure of the Council.

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

(1) appoint employees in the competitive service subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and general schedule pay rates;

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

(3) implement the decisions and strategic plan for the Museum, as approved by the Council, and perform such other functions as may be assigned from time to time by the Council, the Executive Committee of the Council, consistent with this legislation.

SEC. 2306. INSURANCE FOR MUSEUM.

The Museum shall maintain insurance on the memorial museum to cover such risks, in such amount, and containing such terms and conditions as the Museum deems necessary.

SEC. 2307. GIFTS, BEQUESTS, AND DEVISES OF PROPERTY; TAX TREATMENT.

The Museum may solicit, and the Museum may accept, hold, administer, invest, and use gifts, bequests, and devises of property, both real and personal, and all revenues received or generated by the Museum to aid or facilitate the operation and maintenance of the memorial museum. Property may be accepted pursuant to this section, and the property and the proceeds thereof used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. Funds donated to and accepted by the Museum pursuant to this section or otherwise received or generated by the Museum are not to be regarded as appropriated funds and are not subject to any requirements or restrictions applicable to appropriated funds. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

SEC. 2308. ANNUAL REPORT.

The Director shall transmit to Congress an annual report on the Director's stewardship of the authority to operate and maintain the memorial museum. Such report shall include the following:

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

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

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

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

SEC. 2309. AUDIT OF FINANCIAL TRANSACTIONS.

Financial transactions of the Museum, including those involving donated funds, shall be audited by the Comptroller General as re-

quested by Congress, in accordance with generally accepted auditing standards. In conducting any audit pursuant to this section, appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files and other papers, items or property in use by the Museum, as necessary of facilitate such audit, and such representatives shall be afforded full facilities for verifying transactions with the balances.

SEC. 2310. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this chapter, there are authorized to be appropriated such sums as may be necessary. Notwithstanding any other provision of law, none of the funds authorized to carry out this chapter may be made available for construction. Authority to enter into contracts and to make payments under this chapter, using funds authorized to be appropriated under this chapter, shall be effective only to the extent, and in such amounts, as provided in advance in appropriations Acts.

