

Calendar No. 630

113TH CONGRESS } 2d Session }	SENATE	{ REPORT 113-290
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NATIONAL WOMEN'S HISTORY MUSEUM COMMISSION ACT

DECEMBER 10, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 398]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 398) to establish the Commission to Study the Potential Creation of a National Women's History Museum, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission to Study the Potential Creation of a National Women's History Museum Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the Commission to Study the Potential Creation of a National Women's History Museum established by section 3(a).

(2) MUSEUM.—The term "Museum" means the National Women's History Museum.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—There is established the Commission to Study the Potential Creation of a National Women's History Museum.

(b) MEMBERSHIP.—The Commission shall be composed of 8 members, of whom—

(1) 2 members shall be appointed by the majority leader of the Senate;

(2) 2 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(c) **QUALIFICATIONS.**—Members of the Commission shall be appointed to the Commission from among individuals, or representatives of institutions or entities, who possess—

- (1)(A) a demonstrated commitment to the research, study, or promotion of women's history, art, political or economic status, or culture; and
- (B)(i) expertise in museum administration;
- (ii) expertise in fundraising for nonprofit or cultural institutions;
- (iii) experience in the study and teaching of women's history;
- (iv) experience in studying the issue of the representation of women in art, life, history, and culture at the Smithsonian Institution;
- (v) extensive experience in public or elected service; or
- (vi) experience as a professional historian with expertise in women's history;
- (2) experience in the administration of, or the planning for, the establishment of, museums; or
- (3) experience in the planning, design, or construction of museum facilities.

(d) **PROHIBITION.**—No employee of the Federal Government may serve as a member of the Commission.

(e) **DEADLINE FOR INITIAL APPOINTMENT.**—The initial members of the Commission shall be appointed not later than the date that is 90 days after the date of enactment of this Act.

(f) **VACANCIES.**—A vacancy in the Commission—

- (1) shall not affect the powers of the Commission; and
- (2) shall be filled in the same manner as the original appointment was made.

(g) **CHAIRPERSON.**—The Commission shall, by majority vote of all of the members, select 1 member of the Commission to serve as the Chairperson of the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

(a) **REPORTS.**—

(1) **PLAN OF ACTION.**—The Commission shall submit to the President and Congress a report containing the recommendations of the Commission with respect to a plan of action for the establishment and maintenance of a National Women's History Museum in Washington, DC.

(2) **REPORT ON ISSUES.**—The Commission shall submit to the President and Congress a report that addresses the following issues:

- (A) The availability and cost of collections to be acquired and housed in the Museum.
- (B) The impact of the Museum on regional women history-related museums.
- (C) Potential locations for the Museum in Washington, DC, and its environs.
- (D) Whether the Museum should be part of the Smithsonian Institution.
- (E) The governance and organizational structure from which the Museum should operate.
- (F) Best practices for engaging women in the development and design of the Museum.
- (G) The cost of constructing, operating, and maintaining the Museum.

(3) **DEADLINE.**—The reports required under paragraphs (1) and (2) shall be submitted not later than the date that is 18 months after the date of the first meeting of the Commission.

(b) **FUNDRAISING PLAN.**—

(1) **IN GENERAL.**—The Commission shall develop a fundraising plan to support the establishment, operation, and maintenance of the Museum through contributions from the public.

(2) **CONSIDERATIONS.**—In developing the fundraising plan under paragraph (1), the Commission shall consider—

- (A) the role of the National Women's History Museum (a nonprofit, educational organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that was incorporated in 1996 in Washington, DC, and dedicated for the purpose of establishing a women's history museum) in raising funds for the construction of the Museum; and
- (B) issues relating to funding the operations and maintenance of the Museum in perpetuity without reliance on appropriations of Federal funds.

(3) **INDEPENDENT REVIEW.**—The Commission shall obtain an independent review of the viability of the plan developed under paragraph (1) and such review shall include an analysis as to whether the plan is likely to achieve the level of resources necessary to fund the construction of the Museum and the operations and maintenance of the Museum in perpetuity without reliance on appropriations of Federal funds.

(4) **SUBMISSION.**—The Commission shall submit the plan developed under paragraph (1) and the review conducted under paragraph (3) to the Committees on Transportation and Infrastructure, House Administration, Natural Resources, and Appropriations of the House of Representatives and the Committees on Rules and Administration, Energy and Natural Resources, and Appropriations of the Senate.

(c) **LEGISLATION TO CARRY OUT PLAN OF ACTION.**—Based on the recommendations contained in the report submitted under paragraphs (1) and (2) of subsection (a), the Commission shall submit for consideration to the Committees on Transportation and Infrastructure, House Administration, Natural Resources, and Appropriations of the House of Representatives and the Committees on Rules and Administration, Energy and Natural Resources, and Appropriations of the Senate recommendations for a legislative plan of action to establish and construct the Museum.

(d) **NATIONAL CONFERENCE.**—Not later than 18 months after the date on which the initial members of the Commission are appointed under section 3, the Commission may, in carrying out the duties of the Commission under this section, convene a national conference relating to the Museum, to be comprised of individuals committed to the advancement of the life, art, history, and culture of women.

SEC. 5. DIRECTOR AND STAFF OF COMMISSION.

(a) **DIRECTOR AND STAFF.**—

(1) **IN GENERAL.**—The Commission may employ and compensate an executive director and any other additional personnel that are necessary to enable the Commission to perform the duties of the Commission.

(2) **RATES OF PAY.**—Rates of pay for persons employed under paragraph (1) shall be consistent with the rates of pay allowed for employees of a temporary organization under section 3161 of title 5, United States Code.

(b) **NOT FEDERAL EMPLOYMENT.**—Any individual employed under this Act shall not be considered a Federal employee for the purpose of any law governing Federal employment.

(c) **TECHNICAL ASSISTANCE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), on request of the Commission, the head of a Federal agency may provide technical assistance to the Commission.

(2) **PROHIBITION.**—No Federal employees may be detailed to the Commission.

SEC. 6. ADMINISTRATIVE PROVISIONS.

(a) **COMPENSATION.**—

(1) **IN GENERAL.**—A member of the Commission—

(A) shall not be considered to be a Federal employee for any purpose by reason of service on the Commission; and

(B) shall serve without pay.

(2) **TRAVEL EXPENSES.**—A member of the Commission shall be allowed a per diem allowance for travel expenses, at rates consistent with those authorized under subchapter I of chapter 57 of title 5, United States Code.

(b) **GIFTS, BEQUESTS, DEVISES.**—The Commission may solicit, accept, use, and dispose of gifts, bequests, or devises of money, services, or real or personal property for the purpose of aiding or facilitating the work of the Commission.

(c) **FEDERAL ADVISORY COMMITTEE ACT.**—The Commission shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 7. TERMINATION.

The Commission shall terminate on the date that is 30 days after the date on which the final versions of the reports required under section 4(a) are submitted.

SEC. 8. FUNDING.

(a) **IN GENERAL.**—The Commission shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the Commission.

(b) **PROHIBITION.**—No Federal funds may be obligated to carry out this Act.

PURPOSE

The purpose of S. 398 is to establish the Commission to Study the Potential Creation of a National Women's History Museum.

BACKGROUND AND NEED

The National Women's History Museum (NWHM) was founded in 1996 and is a nonpartisan, nonprofit educational institution dedicated to preserving, interpreting, and celebrating the diverse his-

toric contributions of women, and integrating this rich heritage fully into our nation's history.

Recognition of the achievements made by American women will promote a better understanding of our history and culture for all who visit Washington, D.C. In 1999, *The President's Commission on the Celebration of Women in American History* called for a women's history museum in Washington, D.C., and specifically cited the NWHM in that role.

From its founding, NWHM has worked hard towards obtaining a permanent museum site in the nation's capital on or near the National Mall. S. 398 would establish a commission to provide recommendations to the President and Congress with respect to a plan of action for the establishment and maintenance of a National Women's History Museum in Washington D.C.

Legislation is needed to establish a Commission to study the potential creation of a National Women's History Museum and to require a report containing recommendations with respect to a plan of action for the establishment and maintenance of a National Women's History Museum in Washington, D.C., be submitted to the President and Congress.

LEGISLATIVE HISTORY

S. 398 was introduced by Senator Collins with 28 cosponsors on February 27, 2013. The subcommittee on National Parks held a hearing on S. 398 on July 31, 2013 (S. Hrg. 113-93). At its business meeting on November 13, 2014, the Committee ordered S. 398 favorably reported if amended.

A similar bill, H.R. 863, was introduced in the House of Representatives on February 27, 2013 by Representative Maloney where it was referred to the Committee on Natural Resources, and in addition the Committee on House Administration. The Subcommittee on Public Lands and Environmental Regulation held a hearing on H.R. 863 on March 25, 2014 and reported the bill as amended on April 10, 2014 (H. Rept. 113-411, Part II). The committee on House Administration reported H.R. 863 on April 10, 2014 (H. Rept. 113-411, Part I). On May 7, 2014, the House of Representatives passed the bill by the Yeas and Nays 383-33.

In the 112th Congress, multiple bills were introduced pertaining to a potential authority to sell a specific property (the "Cotton Annex" site) to the National Women's History Museum, Inc. S. 680 was introduced on March 30, 2011 by Sen. Collins and referred to the Senate Committee on Environment and Public Works. The Committee reported S. 680 on May 2, 2011 (S. Rept. 112-14). In the House of Representatives, H.R. 1269, sponsored by Representative Maloney, was introduced on March 30, 2011. The bill was referred to the Committee on Transportation and Infrastructure.

In the 111th Congress, bills similar to those from the 112th Congress efforts were introduced in the Senate (S. 2129) by Senator Collins on October 29, 2009, and in the House of Representative (H.R. 1700) by Representative Maloney. S. 2129 was initially referred to the Committee on Homeland Security and Governmental Affairs on October 29, 2009 but was discharged from that committee and referred to the Committee on Environment and Public Works. The Committee on Environment and Public Works reported S. 2129 on June 28, 2010. H.R. 1700 was referred to the House

Committee on Transportation and Infrastructure and was reported on October 8, 2009. The House of Representatives passed the bill by voice vote on October 14, 2009.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 13, 2014, by a voice vote of a quorum present, recommends that the Senate pass S. 398, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 398, the Committee adopted an amendment in the nature of a substitute. The amendment changes the short title of the act. It also adds experience as a historian in women's history to the Commission membership qualifications. Under the duties of the Commission, a specific reference to a potential location of a women's history museum was removed. Within the subsection on the Commission's duty to develop a fundraising plan, the operation of the Museum was added to the purpose of the fundraising to support the establishment, and maintenance of the Museum. Additionally, within this subsection, the consideration that no Federal funding should be part of the fundraising plan for operations and maintenance of the Museum. An independent review of the viability of the plan is added, as is submission of the plan to Congress. The Committee amendment is explained in detail in the section-by-section analysis below.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the "Commission to Study the Potential Creation of a National Women's History Act."

Section 2 defines the terms "Commission" and "Museum."

Section 3 establishes the Commission to Study the Potential Creation of a National Women's History Museum.

Subsection (b) defines the membership of the commission.

Subsection (c) defines qualifications for members.

Subsection (d) prohibits Federal Government employees from being Commission members.

Subsection (e) creates a deadline for appointment.

Subsection (f) deals with vacancies on the Commission.

Subsection (g) explains how a chairperson for the Commission shall be elected.

Section 4 explains the duties of the Commission.

Subsection (a) pertains to reporting requirements of the Commission to provide report to the President and Congress with recommendations on a plan of action and a report on specific issues for the establishment of the museum. These issues include the availability and cost of collections; the impact of the museum on regional women history-related museums; potential locations for the museum; whether the museum should be part of the Smithsonian Institution; how the museum should be operated; the best practices to engage women in developing and designing the museum; and, the cost of constructing, operating, and maintaining the museum. Subsection (a)(3) requires the reports to be submitted not later than 18 months after the first meeting of the Commission.

Subsection (b) requires the Commission to develop a fundraising plan and specific considerations for establishment, operation, and maintenance of the Museum through contributions from the public without a reliance on Federal appropriations. The Commission is required to have an independent review of the viability of the plan before it is submitted to specific Congressional committees..

Subsection (c) requires the Commission to submit a legislative plan of action to establish and construct the museum.

Subsection (d) instructs the Commission to hold a national conference relating to the museum.

Section 5 permits the Commission to employ a director and staff of the Commission and establish rates of pay in Subsection (a).

Subsection (b) precludes Commission employees from being considered a Federal employee.

Subsection (c) allows agencies to provide technical assistance to the Commission but bans Federal employees being detailed to the Commission.

Section 6 provides administrative provisions for the Commission. Subsection (a) details compensation for serving as a member of the Commission by prohibiting pay. Reimbursement of expenses of Commission members is allowed.

Subsection (b) allows the Commission to accept donations.

Subsection (c) makes the Commission not subject to the Federal Advisory Committee Act.

Section 7 provides for termination of the Commission.

Section 8 (a) tasks the Commission to be solely responsible for acceptance of contributions for, and payment of expenses of, the Commission.

Subsection (b) prohibits Federal funds from being utilized to carry out this act.

COST AND BUDGETARY CONSIDERATIONS

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

S. 398—Commission to Study the Potential Creation of a National Women's History Museum Act

CBO estimates that enacting S. 398 would have no significant effect on the federal budget. The legislation would affect direct spending because it would authorize a new commission to accept and spend monetary gifts. Therefore, pay-as-you-go procedures apply. However, CBO estimates that the net effect of the bill on direct spending would be insignificant. Enacting S. 398 would not affect revenues.

S. 398 would establish a new commission to prepare a report containing recommendations as well as a fundraising plan for establishing and maintaining a National Women's History Museum in Washington, D.C. The 8-member commission would have 18 months to produce the report and submit it to the Congress. All commission members would serve without pay but would be reimbursed for travel expenses. In addition, the commission would be authorized to hire staff and, while no federal employees could be detailed to the commission, federal agencies could provide technical support. Finally, the bill would prohibit federal funds from being

used for commission expenses; it would rely on gifts and contributions to cover those costs.

S. 398 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.

On April 9, 2014, CBO transmitted a cost estimate for H.R. 863, the Commission to Study the Potential Creation of a National Women's History Museum Act of 2013, as ordered reported by the Committee on House Administration on April 2, 2013. On April 15, 2014, CBO transmitted a cost estimate for H.R. 863 as ordered reported by the House Committee on Natural Resources on April 9, 2013. Each of those pieces of legislation are similar to S. 398, and the CBO cost estimates are the same.

The CBO staff contact for this estimate is Marin Burnett. The estimate was approved by Theresa Gullo, 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 S. 398.

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 S. 398, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 398, 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 July 31, 2013, Subcommittee on National Parks hearing on S. 398 follows:

STATEMENT OF STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 398, a bill to establish the commission to study the potential creation of a National Women's History Museum, and for other purposes.

The Department does not oppose S. 398, but recommends the amendment discussed below.

S. 398 would establish a Commission to study and report on the potential creation of a national women's history museum. S. 398 directs the Commission to submit to the

President and Congress a report containing recommendations on the availability and cost of collections to be acquired and housed in the museum, the impact the museum may have on regional women's history-related museums, possible locations within Washington, D.C. or its environs, whether the museum should be part of the Smithsonian Institution, the governance and organizational structure from which the museum should operate, how to engage women in the development and design of a museum, and the cost of constructing, operating, and maintaining the museum.

The Commission, consisting of eight members appointed by the congressional leadership, would convene a national conference on the museum no later than eighteen months after its appointment and submit recommendations for a plan of action for the establishment and maintenance of a museum no later than eighteen months after their first meeting.

Section 4(a)(2)(C) of S. 398 directs the Commission to recommend potential locations, including the location on land bounded by Independence Avenue SW., 14th Street SW., 15th Street SW., and Jefferson Drive SW., in Washington, D.C. This area has several constraints. First, it is located on the Washington Monument grounds, an area treasured for its open space and natural setting. Second, the museum's development potential will likely be significantly constrained by the area's size and configuration. Third, this location is also within the Reserve as defined by the Commemorative Works Act (CWA), 40 U.S. Code, Section 89 (Section 8908(c)). In the 2003 Amendments to the CWA, Congress declared the Reserve a "substantially completed work of civic art," where no new memorials may be located. The Reserve continues to protect the National Mall's historic open space character enjoyed by millions of Americans and visitors. Museum development on this site is also precluded in the 2001 Memorials and Museums Master Plan (Chapter 3, page 32), which continues to guide the location of new memorials, museums, and related structures in the Nation's Capital. This plan was the result of a multi-year effort by the National Capital Planning Commission, the US Commission of Fine Arts, the National Capital Memorial Advisory Commission and the National Park Service. We recommend amending the bill by deleting this specific location as a potential site for the museum. There are a number of sites within the monumental core that are worthy of consideration for a museum of this importance, as identified in the Monumental Core Framework Plan which identifies preferred sites for new museums.

We support, in concept, the proposal to further the education and interpretation of significant segments of American history and culture. However, we feel strongly that this Commission move forward in a way that does not contravene the CWA.

We appreciate the opportunity to testify on S. 398. We would like the opportunity to work with the subcommittee to address our proposed amendment, and we urge the subcommittee to consult with other relevant agencies as the bill moves forward.

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 S. 398, as ordered reported.

