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112TH CONGRESS
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HOUSE OF REPRESENTATIVES
REPT. 112–84
Part 1

HONORING AMERICAN VETERANS ACT OF 2011

MAY 20, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MILLER of Florida, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

[To accompany H.R. 1627]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1627) to amend title 38, United States Code, to provide for certain requirements for the placement of monuments in Arlington National Cemetery, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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99–006

AMENDMENT

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 "Honoring American Veterans Act of 2011".

SEC. 2. REQUIREMENTS FOR THE PLACEMENT OF MONUMENTS IN ARLINGTON NATIONAL CEMETERY.

Section 2409(b) of title 38, United States Code, is amended—

(1) by striking "Under" and inserting "(1) Under";

(2) by inserting after "Secretary of the Army" the following: "and subject to paragraph (2)"; and

(3) by adding at the end the following new paragraphs:

"(2)(A) Except for a monument containing or marking interred remains, no monument (or similar structure, as determined by the Secretary of the Army in regulations) may be placed in Arlington National Cemetery except pursuant to the provisions of this subsection.

"(B) A monument may be placed in Arlington National Cemetery if the monument commemorates—

"(i) the service in the Armed Forces of the individual, or group of individuals, whose memory is to be honored by the monument; or

"(ii) a particular military event.

"(C) No monument may be placed in Arlington National Cemetery until the end of the 25-year period beginning—

"(i) in the case of the commemoration of service under subparagraph (B)(i), on the last day of the period of service so commemorated; and

"(ii) in the case of the commemoration of a particular military event under subparagraph (B)(ii), on the last day of the period of the event.

"(D) A monument may be placed only in those sections of Arlington National Cemetery designated by the Secretary of the Army for such placement and only on land the Secretary determines is not suitable for burial.

"(E) A monument may only be placed in Arlington National Cemetery if an appropriate non-governmental entity has agreed to act as a sponsoring organization to coordinate the placement of the monument and—

"(i) the construction and placement of the monument are paid for only using funds from private sources;

"(ii) the Secretary of the Army consults with the Commission of Fine Arts before approving the design of the monument; and

"(iii) the sponsoring organization provides for an independent study on the availability and suitability of alternative locations for the proposed monument outside of Arlington National Cemetery.

"(3)(A) The Secretary of the Army may waive the requirement under paragraph (2)(C) in a case in which the monument would commemorate a group of individuals who the Secretary determines—

"(i) has made valuable contributions to the Armed Forces that have been ongoing and perpetual for longer than 25 years and are expected to continue on indefinitely; and

"(ii) has provided service that is of such a character that the failure to place a monument to the group in Arlington National Cemetery would present a manifest injustice.

"(B) If the Secretary waives such requirement under subparagraph (A), the Secretary shall—

"(i) make available on an Internet website notification of the waiver and the rationale for the waiver; and

"(ii) submit to the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives written notice of the waiver and the rationale for the waiver.

"(4) The Secretary of the Army shall provide notice to the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives of any monument proposed to be placed in Arlington National Cemetery. During the 60-day period beginning on the date on which such notice is received, Congress may pass a joint resolution of disapproval of the placement of the monument. The proposed monument may not be placed in Arlington National Cemetery until the later of—

"(A) if Congress does not pass a joint resolution of disapproval of the placement of the monument, the date that is 60 days after the date on which notice is received under this paragraph; or

"(B) if Congress passes a joint resolution of disapproval of the placement of the monument, and the President signs a veto of such resolution, the earlier of—

"(i) the date on which either House of Congress votes and fails to override the veto of the President; or

"(ii) the date that is 30 session days after the date on which Congress received the veto and objections of the president.".

SEC. 3. CODIFICATION OF PROHIBITION AGAINST RESERVATION OF GRAVESITES AT ARLINGTON NATIONAL CEMETERY.

(a) IN GENERAL.—Chapter 24 of title 38, United States Code, is amended by inserting after section 2410 the following new section:

"§ 2410A. Arlington National Cemetery: other administrative matters

"(a) ONE GRAVESITE PER FAMILY.—(1) Not more than one gravesite may be provided at Arlington National Cemetery to a veteran or member of the Armed Forces who is eligible for interment at such cemetery and the family members of such veteran or member who are also eligible for interment at such cemetery.

"(2) The Secretary may waive the requirement under paragraph (1) in extreme circumstances, as determined by the Secretary. If the Secretary waives such requirement under this paragraph, the Secretary shall submit notice of the waiver to the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives.

"(b) PROHIBITION AGAINST RESERVATION OF GRAVESITES.—A gravesite at Arlington National Cemetery may not be reserved for an individual before the death of such individual.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 24 of such title is amended by inserting after the item relating to section 2410 the following new item:

"2410A. Arlington National Cemetery: other administrative matters.".

(c) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 2410A of such title, as added by subsection (a), shall apply with respect to all interments at Arlington National Cemetery after the date of the enactment of this Act.

(2) EXCEPTION.—Subsection (b) of such section, as so added, shall not apply with respect to the interment of an individual for whom a written request for a reserved gravesite was submitted to the Secretary of the Army before January 1, 1962, and subsequently approved.

(d) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on reservations made for interment at Arlington National Cemetery.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The number of requests for reservation of a gravesite at Arlington National Cemetery that were submitted to the Secretary of the Army before January 1, 1962.

(B) The number of gravesites at such cemetery that, on the day before the date of the enactment of this Act, were reserved in response to such requests.

(C) The number of such gravesites that, on the day before the date of the enactment of this Act, were unoccupied.

(D) A list of all reservations for gravesites at such cemetery that were extended by individuals responsible for management of such cemetery in response to requests for such reservations made on or after January 1, 1962.

(E) A description of the measures that the Secretary is taking to improve the accountability and transparency of the management of gravesite reservations at Arlington National Cemetery.

(F) Such recommendations as the Secretary may have for legislative action as the Secretary considers necessary to improve such accountability and transparency.

SEC. 4. SENSE OF CONGRESS REGARDING THE PROVISION OF A MEMORIAL MARKER ON CHAPLAINS HILL TO HONOR THE MEMORY OF THE JEWISH CHAPLAINS WHO DIED WHILE ON ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES.

(a) FINDINGS.—Congress makes the following findings:

(1) 13 Jewish chaplains have died while on active duty in the Armed Forces of the United States.

(2) Army Chaplain Rabbi Alexander Goode died on February 3, 1943, when then U.S.S. Dorchester was sunk by German torpedoes off the coast of Greenland.

(3) Chaplain Goode received the Four Chaplains' Medal for Heroism and the Distinguished Service Cross for his heroic efforts to save the lives of those onboard the Dorchester.

(4) Army Chaplain Rabbi Irving Tepper was killed in action in France on August 13, 1944.

(5) Chaplain Tepper also saw combat in Morocco, Tunisia, and Sicily while attached to an infantry combat team in the Ninth Division.

(6) Army Chaplain Rabbi Louis Werfel died on December 24, 1944, at the young age of 27, in a plane crash while en route to conduct Chanukah services.

(7) Chaplain Werfel was known as "The Flying Rabbi" because his duties required traveling great distances by plane to serve Army personnel of Jewish faith at outlying posts.

(8) Army Chaplain Rabbi Meir Engel died at the Naval Hospital in Saigon, Vietnam, on December 16, 1964, after faithfully serving his country during World War II, the Korean War, and the Vietnam War.

(9) Army Chaplain Rabbi Morton Singer died on December 17, 1968, in a plane crash while on a mission in Vietnam to conduct Chanukah services.

(10) Army Chaplain Rabbi Herman Rosen died in service of his faith and his country on June 18, 1943.

(11) His son, Air Force Chaplain Solomon Rosen, also died in service of his faith and his country on November 2, 1948.

(12) Army Chaplain Rabbi Nachman Arnoff died in service of his faith and his country on May 9, 1946.

(13) Army Chaplain Rabbi Frank Goldenberg died in service of his faith and his country on May 22, 1946.

(14) Army Chaplain Rabbi Henry Goody died in service of his faith and his country on October 19, 1943.

(15) Army Chaplain Rabbi Samuel Hurwitz died in service of his faith and his country on December 9, 1943.

(16) Air Force Chaplain Rabbi Samuel Rosen died in service of his faith and his country on May 13, 1955.

(17) Air Force Chaplain Rabbi David Sobel died in service of his faith and his country on March 7, 1974.

(18) Chaplains Hill in Arlington National Cemetery memorializes the names of 242 chaplains who perished while serving on active duty in the Armed Forces of the United States.

(19) None of the 13 Jewish chaplains who have died while serving on active duty are memorialized on Chaplains Hill.

(b) SENSE OF CONGRESS.—It is the sense of Congress that an appropriate site on Chaplains Hill in Arlington National Cemetery should be provided for a memorial marker, to be paid for with private funds, to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States, so long as the Secretary of the Army has exclusive authority to approve the design and site of the memorial marker.

SEC. 5. SENSE OF CONGRESS REGARDING THE SERVICE AND SACRIFICE OF MEMBERS OF THE UNITED STATES ARMED FORCES WHO ARE SERVING IN, OR HAVE SERVED IN, OPERATION ENDURING FREEDOM, OPERATION IRAQI FREEDOM, AND OPERATION NEW DAWN.

(a) FINDINGS.—Congress makes the following findings:

(1) More than 2,000,000 members of the Armed Forces have deployed to the theaters of war since the commencement of Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn.

(2) Hundreds of thousands of such members have deployed for multiple tours of duty, leaving their homes, their families, and in many cases, their civilian jobs.

(3) More than 5,500 members of the Armed Forces have made the ultimate sacrifice for the United States while serving in Iraq or Afghanistan.

(4) Tens of thousands of additional members of the Armed Forces have been seriously wounded in the line of duty while serving in these theaters of war.

(5) These members of the Armed Forces have answered the Nation's call to duty, serving bravely and nobly and, in most cases, without fanfare or acclaim.

(6) These members of the Armed Forces have personified the virtues of patriotism, service, duty, courage, and sacrifice.

(7) All Americans recognize the service and sacrifices made by these members of the Armed Forces and their families.

(b) SENSE OF CONGRESS.—Congress—

(1) honors the members of the Armed Forces who are serving in Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn and the members and veterans who have previously served in Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn; and

(2) calls on all Americans to reflect on the service of these members and veterans and to hold them in a special place of honor now and in the future.

PURPOSE AND SUMMARY

H.R. 1627, was introduced on April 15, 2011, by Chairman Jeff Miller of Florida. H.R. 1627, as amended, would:

Under Section 2, set forth the requirements for the placement of monuments in Arlington National Cemetery.

Under Section 3, prohibit gravesite reservations at Arlington National Cemetery and, in general, limit eligible families to one gravesite at Arlington.

Under Section 4, express the sense of Congress that an appropriate site on Chaplains' Hill in Arlington National Cemetery be provided for a memorial marker.

Under Section 5, express the sense of the Congress honoring the service and sacrifice of members of the Armed Forces who are serving in, or have served in, Operation Enduring Freedom, Operation Iraqi Freedom and Operation New Dawn.

BACKGROUND AND NEED FOR LEGISLATION

The land upon which Arlington National Cemetery (ANC) is now situated had previously been owned by General Robert E. Lee until he and his family left the land shortly after the start of the Civil War. The Federal Government seized the land soon after assessing a tax lien.

On July 17, 1862, in the midst of the Civil War, President Lincoln approved a bill that provided, in part, that "The President of the United States shall have power, whenever in his opinion it shall be expedient, to purchase cemetery grounds and cause them to be securely enclosed to be used as a national cemetery for the soldiers who die in the service of the country." Using this authority, on June 15, 1864, Secretary of War Edwin Stanton formally designated the area as a military cemetery. The first military burial had already taken place the month prior.

After the conclusion of the Civil War and the interment of thousands of the fallen, General Lee's son, George Washington Custis Lee, successfully sued the U.S. government for ownership to the land. The dispute was eventually settled after Lee accepted compensation of $150,000 for the land from the United States in 1883.

Arlington National Cemetery (ANC) is a unique national treasure. It is both an active burial ground and a place many people visit to contemplate the solemnity of death and honor the nation's history. Over 300,000 former servicemembers and their spouses and children are buried in the Cemetery which attracts millions of visitors each year. Eventually though, the 624 acre plot will be filled and fallen servicemembers will no longer be able to be buried in ANC. Currently, approximately 4,000 people are buried in ANC each year. According to 2005 projections, the Cemetery is likely to reach capacity around the year 2060.

It is for this reason that legislation is necessary to ensure the integrity of ANC is preserved both in its utilization of land with the placement of monuments and the allocation of gravesites.

Requirements for the placement of monuments in Arlington National Cemetery—Section 2 of H.R. 1627, as amended, is derived from H.R. 1627 as introduced, and would set forth the requirements for the placement of monuments at ANC.

As noted above, space in the cemetery is limited; 2005 estimates project the Cemetery to reach capacity around the year 2060. Of special concern is the placement of monuments in the Cemetery. Currently there are 24 significant monuments in ANC. Seven either contain or mark the interment of remains. These are called Memorial Monuments. The remaining seventeen honor groups of individuals, military branches, or specific events in history. These are called Commemorative Monuments.

The authority and procedures for emplacement of these Commemorative Monuments have varied with nearly every monument placed. At present there are no federal statutes to provide objective criteria for approval of monuments at ANC. Monument approval is currently regulated through a few entries in the body of administrative law found in the Code of Federal Regulation. 32 CFR 553(l) specifically addresses monuments at ANC and calls for a joint or concurrent resolution of Congress in order to authorize erection of a monument. 32 CFR 553 also requires consultation with the U.S. Commission on Fine Arts before approving a monument for placement at ANC. The policy of requiring a Congressional resolution does so without any reference to when in the process it should be sought. While many organizations may choose to work with the staff of ANC first and seek a Congressional resolution only after most of the planning and approval is complete, nothing would prevent a group from seeking Congressional support for a monument before ever coming forward and presenting the idea to ANC.

Because of the relatively lax standards in place at present for placing monuments at ANC there is little to guarantee those charged with the care, upkeep and maintenance of ANC will be consulted before Congress acts. At present a sponsoring organization could obtain its Congressional resolution directing ANC to act without any consideration given to the use of land or its impact on the overall pastoral environment of ANC. For those monuments that are so deserving and appropriate, the process of lobbying Congress for a resolution can cause undue and burdensome delay. For instance, according to information provided to the Committee by ANC officials, the sponsoring entity of the Jewish War Chaplains monument had satisfied all requirements for emplacement of a monument, save Congressional approval, as of June 2010. Nearly one year later, almost entirely due to procedural delay, Congress has yet to approve placement of the Jewish War Chaplains monument.

Section 2 of H.R. 1627, as amended, would establish clear and objective criteria for the Secretary of the Army in considering and approving monument requests. It would do this by putting in place a requirement that monuments commemorate the military service of an individual, a group of individuals, or a military event that is at least 25 years old. The purpose of the 25-year requirement would be to ensure that a permanent monument truly stands the

test of time and is not commemorating events based on the passions of a moment. H.R. 1627, as amended, would also require that monuments be placed in sections of Arlington designated by the Secretary of the Army for that explicit purpose and only on land that is not suitable for burial. The bill would further require that monument construction and placement must be funded by a non-governmental entity using funds from private sources. The Secretary of the Army would be required to consult with the U.S. Commission on Fine Arts before approving the monument design, and the sponsoring entity must issue a study on the suitability and availability of other sites (outside of ANC) where the monument could be placed.

Recognizing the need for flexibility in monument determinations, H.R. 1627, as amended, would permit the Secretary of the Army to waive the 25-year rule (noted above) in the event a monument proposes to commemorate a group of individuals who have made valuable contributions to the Armed Forces for longer than 25 years and those contributions continue, and are expected to continue, indefinitely, and such groups have provided service of such a character that it would present a manifest injustice if approval of the monument was not permitted. Finally, H.R. 1627, as amended, would retain ultimate Congressional oversight of monument placement at ANC by requiring the Secretary of the Army to notify Congress of any decision to approve a monument, along with the stated rationale, before a monument may be placed. Congress would have 60 days to review the decision and, if it chooses, pass a disapproval resolution in order to halt the monument from going forward. If Congress takes no action, the monument would be deemed approved after the 60-day period lapses.

H.R. 1627, as amended, therefore, retains elements of the Department of the Army's existing regulatory framework with respect to monument placement at ANC and builds upon that framework by establishing an objective, transparent, rigorous, and flexible criteria for future monument placement.

Codification of prohibition against reservation of gravesites at Arlington National Cemetery—Section 3 of H.R. 1627 as amended, is derived from H.R. 1441, and would prohibit gravesite reservations at ANC and limit eligible families to one gravesite, except in certain extreme circumstances. As stated above, space suitable for in-ground burial is becoming very limited at ANC. Section 3, of H.R. 1627, as amended, is intended to address both the availability for and eligibility of gravesites at ANC.

Section (a) would set clear requirements that a deceased servicemember or veteran and his or her family may only occupy the one gravesite the eligible servicemember is entitled to for burial. Recognizing there may be extraordinary cases when more than one gravesite may need to be occupied, Section (a) permits the Secretary of the Army to waive the one gravesite requirement in certain extreme circumstances. An example of such circumstance might include the death of an eligible servicemember or veteran and his or her entire family of qualifying dependants in a motor vehicle accident when the number of qualifying dependants exceeds the number of caskets that can be buried in one gravesite.

Section (b) would prohibit reservation of gravesites. For many years, from some time after its creation until 1962, gravesites at

ANC were allowed to be reserved when space was not an issue. Since 1962, the Department of the Army has had a policy that prohibits the acceptance of reservations. Despite this official policy, past officials at ANC have maintained secret reservation lists of distinguished individuals since 1962 up until last year when the Army again reaffirmed its policy prohibiting reservations. These reservations were held primarily by senior military and government officials and removed selected open gravesites from availability for interment by recently deceased servicemembers and veterans, adding to what can already be a wait of several months for an opportunity to be buried at ANC. This section would codify in Federal law the prohibition against reservation of gravesites by living servicemembers and veterans, and reaffirm that eligibility for burial at Arlington National Cemetery is based on a servicemember's or veteran's qualifying service, not on their rank or position.

Sense of Congress regarding the provision of a memorial marker on Chaplains' Hill to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States—Section 4 of H.R. 1627, as amended, is derived from H. Con. Res. 12, and would express the sense of Congress that an appropriate site on Chaplains' Hill in ANC be provided for a memorial marker. Chaplains' Hill at ANC is so named because Chaplains from four wars rest on its hillside in Section 2 of ANC. Atop the Hill sit three Memorials to Protestant and Catholic Chaplains. The first monument was emplaced on May 5, 1926, and is dedicated to 23 Chaplains who died in World War I. The second monument was dedicated on October 26, 1981, and honors 134 Protestant Chaplains who died in World Wars I and II. The third monument, dedicated on May 21, 1989, honors 83 Catholic Chaplains who died in World War II, Korea, and Vietnam. Despite the fact that Jewish Rabbis have been serving as military Chaplains since the Civil War and 13 Jewish Chaplains have died while in active service, there is currently no recognition of their service and sacrifice on Chaplains' Hill alongside their Christian colleagues. This despite the fact that three of the "Four Chaplains" who sacrificed their lives so that others might live during the sinking of the U.S.S. Dorchester in World War II have their names memorialized on the monuments atop Chaplains' Hill. The one lone Chaplain of the famed "Four Chaplains" not named atop Chaplains' Hill for his sacrifice is Rabbi and Army Lieutenant Alexander D. Goode. Approval of this monument will allow Lieutenant Goode and all the other Jewish Chaplains who have given their lives in the service of their country to be appropriately recognized and honored with their fellow Chaplains amid the hallowed ground of ANC. The Committee believes that passage of Section 4 of H.R. 1627, as amended, along with the separate Senate passage of companion language would satisfy the letter and spirit of ANC's regulatory requirement for Congressional approval of monuments. In the future, it is the Committee's hope that a more objective and transparent framework for monument placement like that contemplated in Section 3 of the bill can be put in place.

Sense of Congress regarding the service and sacrifice of members of the United States Armed Forces who are serving in, or have served in, Operation Enduring Freedom, Operation Iraqi Freedom,

and Operation New Dawn—Section 5 of H.R. 1627, as amended, is derived from H. Con. Res. 45, and would express the sense of Congress honoring the service and sacrifice of members of the Armed Forces who are serving in, or have served in, Operation Enduring Freedom, Operation Iraqi Freedom and Operation New Dawn. The United States Military is made up of an all volunteer force that consists of less than one percent of the United States population. Of this force more than 2,000,000 have deployed to combat theaters since October 7, 2001, many deploying multiple times in support of these operations. Over 5,500 of these servicemembers have made the ultimate sacrifice on behalf of their Nation while serving in Iraq and Afghanistan. As the Nation prepares to celebrate Memorial Day 2011, it is appropriate that the Congress should take the lead in honoring the dedication, service and sacrifice of all those who are presently serving and all those who have served in support of Operation Enduring Freedom, Operation Iraqi Freedom and Operation New Dawn.

HEARINGS

On May 3, 2011, the Subcommittee on Disability Assistance and Memorial Affairs conducted a legislative hearing on various bills introduced during the 112th Congress, including H.R. 1627, H.R. 1441, and H. Con. Res. 12. The following witnesses testified:

Ms. Christina M. Roof, National Acting Legislative Director, AMVETS; Mr. Jeffrey C. Hall, Assistant National Legislative Director, Disabled American Veterans; Mr. Shane Barker, Senior Legislative Associate, National Legislative Service, Veterans of Foreign Wars of the United States; Mr. Barton F. Stichman, Joint Executive Director, National Veterans Legal Service Program; The Honorable Bruce E. Kasold, Chief Judge, United States Court of Appeals for Veterans Claims; Ms. Diana M. Rubens, Associate Deputy Under Secretary for Field Operations, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Mr. Richard J. Hipolit, Assistant General Counsel, U.S. Department of Veterans Affairs; and Mr. Steve Keller, Acting Chairman, Board of Veterans' Appeals, U.S. Department of Veterans Affairs.

Ms. Kathryn A. Condon, Executive Director, Army National Cemeteries Program Office of the Secretary of the Army, Department of the Army, U.S. Department of Defense.

Organizations submitting statements for the record included: Paralyzed Veterans of America.

SUBCOMMITTEE CONSIDERATION

On May 5, 2011, the Subcommittee on Disability Assistance and Memorial Affairs met in an open markup session, a quorum being present, an amendment was offered by Ranking Member McNerney to amend the amendment in the nature of a substitute to H.R. 1627. Mr. McNerney's amendment to the amendment in the nature of a substitute would have required that a joint or concurrent resolution of the House and the Senate expressing support for the new monument at ANC be passed before the monument could be placed at ANC. It would also strike the language in the amendment in the nature of a substitute to H.R. 1627, wherein it would require passage of a joint disapproval resolution to overturn a decision made

by the Secretary of the Army on the placement of commemorative monuments at ANC. Ranking Member McNerney requested a recorded vote on the amendment. The Clerk called the roll and the following votes were recorded: Chairman Runyan—no; Mr. Lamborn—no; Ms. Buerkle—no; Mr. Stutzman—no; Ranking Member McNerney—yes; Mr. Barrow—yes; Mr. Michaud—yes; with a vote of four no/nays to three yes/yeas the amendment was not adopted.

The subcommittee then held a voice vote on the amendment in the nature of a substitute to H.R. 1627, and the amendment in the nature of a substitute was adopted. The amendment in the nature of a substitute incorporated provisions of H.R. 1627, as introduced, H.R. 1441, H. Con. Res. 12, and H. Con. Res. 45. H.R. 1627, as amended, was adopted by voice vote. Mr. Stutzman offered a motion to report and H.R. 1627, as amended, favorably to the full Committee. His motion was accepted by voice vote.

COMMITTEE CONSIDERATION

On May 12, 2011, the full Committee met in an open markup session, a quorum being present, and ordered H.R. 1627, as amended, reported favorably to the House of Representatives, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report the legislation and amendments thereto. There were no record votes taken on amendments or in connection with ordering H.R. 1627, as amended, reported to the House. A motion by Ranking Member Bob Filner of California to order H.R. 1627, as amended, reported favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committees performance goals and objectives are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 1627, as amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 1627, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 1627, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 16, 2011.

Hon. JEFF MILLER,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1627, the Honoring American Veterans Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright.

Sincerely,

DOUGLAS W. ELMENDORF

Enclosure.

H.R. 1627—Honoring American Veterans Act of 2011

H.R. 1627 would codify current practice at Arlington National Cemetery (ANC) regarding the type, placement, and funding of commemorative monuments, and the current prohibition on the reservation of gravesites. No gravesite could be reserved for any individuals before their death unless the request was submitted prior to January 1, 1962.

The bill also would require the Department of the Army to submit a report within 180 days detailing the number of reservation requests made to ANC before January 1, 1962; the number of gravesites that were reserved because of such requests; the number of reserved gravesites that are unoccupied; the number of reservations approved by ANC management; the measures being taken to improve transparency and accountability regarding gravesite reservations at ANC; and recommendations for possible legislative action to improve transparency and accountability.

CBO estimates that implementing H.R. 1627 would cost less than $500,000 in 2012, assuming availability of the necessary appropriations.

Enacting H.R. 1627 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1627 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act and would not affect the budgets of state, local, or tribal governments.

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

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 1627, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 1627, as amended.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

LETTER OF JURISDICTIONAL WAIVER FROM THE CHAIRMAN OF THE HOUSE ARMED SERVICES COMMITTEE

MAY 19, 2011.

Hon. JEFF MILLER,
Chairman, Committee on Veterans' Affairs,
U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN MILLER: I am writing to you concerning the bill H.R. 1627 as amended, Honoring American Veterans Act of 2011. This legislation deals with Arlington National Cemetery and members of the Armed Forces, which fall within the Rule X jurisdiction of the Committee on Armed Services.

In the interest of permitting your committee to proceed expeditiously to floor consideration of this important bill, I am willing to waive this committee's right to sequential referral. I do so with the understanding that by waiving consideration of the bill the Committee on Armed Services does not waive any future jurisdictional claim over the subject matters contained in the bill which fall within its Rule X jurisdiction. I request that you urge the Speaker to name members of this committee to any conference committee which is named to consider such provisions.

Please place this letter into the committee report on H.R. 1627, as amended, and into the Congressional Record during consideration of the measure on the House floor. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

Sincerely,

HOWARD P. "BUCK" MCKEON,
Chairman.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section would provide the short title of H.R. 1627, as amended, as the "Veterans Appeals Improvement Act of 2011."

Section 2. Requirements for the Placement of Monuments in Arlington National Cemetery

Section (2)(A) This section would require that except for a monument containing or marking interred remains, no monument (or similar structure, as determined by the Secretary of the Army in regulations) may be placed in Arlington National Cemetery except pursuant to the provisions of this subsection.

Section (2)(B) This section would provide that a monument may be placed in Arlington National Cemetery if the monument commemorates—

"(i) the service in the Armed Forces of the individual, or group of individuals, whose memory is to be honored by the monument; or

"(ii) a particular military event.

Section (2)(C) This section would require that no monument may be placed in Arlington National Cemetery until the end of the 25-year period beginning—

"(i) in the case of the commemoration of service under subparagraph (B)(i), on the last day of the period of service so commemorated; and

"(ii) in the case of the commemoration of a particular military event under subparagraph (B)(ii), on the last day of the period of the event.

(D) This section would provide that a monument may be placed only in those sections of Arlington National Cemetery designated by the Secretary of the Army for such placement and only on land the Secretary determines is not suitable for burial.

Section (2)(E) would require that a monument may only be placed in Arlington National Cemetery if an appropriate non-governmental entity has agreed to act as a sponsoring organization to coordinate the placement of the monument and—

"(i) would require that the construction and placement of the monument are paid for only using funds from private sources;

"(ii) would require that the Secretary of the Army consults with the Commission of Fine Arts before approving the design of the monument; and

"(iii) would require the sponsoring organization provides for an independent study on the availability and suitability of alternative locations for the proposed monument outside of Arlington National Cemetery.

Section (3)(A) Would provide that the Secretary of the Army may waive the requirement under paragraph (2)(C) in a case in which

the monument would commemorate a group of individuals who the Secretary determines—

"(i) has made valuable contributions to the Armed Forces that have been ongoing and perpetual for longer than 25 years and are expected to continue on indefinitely; and

"(ii) has provided service that is of such a character that the failure to place a monument to the group in Arlington National Cemetery would present a manifest injustice.

Section (3)(B) This section would provide that if the Secretary waives such requirement under subparagraph (A), the Secretary shall—

(i) make available on an Internet website notification of the waiver and the rationale for the waiver; and

(ii) submit to the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives written notice of the waiver and the rationale for the waiver.

Section (4) This section would require that the Secretary of the Army provide notice to the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives of any monument proposed to be placed in Arlington National Cemetery. During the 60-day period beginning on the date on which such notice is received, Congress may pass a joint resolution of disapproval of the placement of the monument. The proposed monument may not be placed in Arlington National Cemetery until the later of—

(A) if Congress does not pass a joint resolution of disapproval of the placement of the monument, the date that is 60 days after the date on which notice is received under this paragraph; or

(B) if Congress passes a joint resolution of disapproval of the placement of the monument, and the President signs a veto of such resolution, the earlier of—

(i) the date on which either House of Congress votes and fails to override the veto of the President; or

(ii) the date that is 30 session days after the date on which Congress received the veto and objections of the President.

Section 3. Codification of Prohibition Against Reservations of Gravesites at Arlington National Cemetary

Section 3 (a) In General.—Chapter 24 of title 38, United States Code, is amended by inserting after section 2410 the following new section:

"§ Sec. 2410A. Arlington National Cemetery: Other Administrative Matters.

Section 3 (a) One Gravesite Per Family.—

(1) This section would provide that not more than one gravesite may be provided at Arlington National Cemetery to a veteran or member of the Armed Forces who is eligible for interment at such cemetery and the family members of such

veteran or member who are also eligible for interment at such cemetery.

(2) This section would provide that the Secretary may waive the requirement under paragraph (1) in extreme circumstances, as determined by the Secretary. If the Secretary waives such requirement under this paragraph, and requires the Secretary to submit notice of the waiver to the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives.

Section 3 (b) *Prohibition Against Reservation of Gravesites*.—This section would provide that a gravesite at Arlington National Cemetery may not be reserved for an individual before the death of such individual.

Section 3 (b) *Clerical Amendment*.—This section would amend the table at the beginning of chapter 24 by inserting after section 2410 the following new item: Arlington National Cemetery: other administrative matters.".

Section 3 (c) *Applicability*.—

(1) *In General*.—This section would provide that this statute would apply to all interments at Arlington National Cemetery after the date of enactment.

(2) *Exception*.—This section would provide an exception in the application of this statute to individuals with an approved written request that was submitted to the Secretary of the Army before January 1, 1962.

Section 3 (d) *Report*.—

(1) *In General*.—This section would require the Secretary of the Army to submit a report to Congress on reservations made for interment at Arlington National Cemetery no later than 180 days after the date of the enactment of this Act.

(2) *Elements*.—This section would require the report to include the following:

(A) The number of requests for reservation of a gravesite at Arlington National Cemetery that were submitted to the Secretary of the Army before January 1, 1962.

(B) The number of gravesites at such cemetery that, on the day before the date of the enactment of this Act, were reserved in response to such requests.

(C) The number of such gravesites that, on the day before the date of the enactment of this Act, were unoccupied.

(D) A list of all reservations for gravesites at such cemeteries that were extended by individuals responsible for management of such cemetery in response to requests for such reservations made on or after January 1, 1962.

(E) A description of the measures that the Secretary is taking to improve the accountability and transparency of the management of gravesite reservations at Arlington National Cemetery.

(F) Such recommendations as the Secretary may have for legislative action as the Secretary considers necessary to improve such accountability and transparency.

Section 4. Sense of Congress Regarding the Provisions of a Memorial marker on Chaplains' Hill to Honor the Memory of the Jewish Chaplains Who Died While on Active Duty in the Armed Forces of the United States.

Section 4 (a) *Findings.*—This section would provide that Congress makes the following findings:

(1) 13 Jewish chaplains have died while on active duty in the Armed Forces of the United States.

(2) Army Chaplain Rabbi Alexander Goode died on February 3, 1943, when then U.S.S. Dorchester was sunk by German torpedoes off the coast of Greenland.

(3) Chaplain Goode received the Four Chaplains' Medal for Heroism and the Distinguished Service Cross for his heroic efforts to save the lives of those onboard the Dorchester.

(4) Army Chaplain Rabbi Irving Tepper was killed in action in France on August 13, 1944.

(5) Chaplain Tepper also saw combat in Morocco, Tunisia, and Sicily while attached to an infantry combat team in the Ninth Division.

(6) Army Chaplain Rabbi Louis Werfel died on December 24, 1944, at the young age of 27, in a plane crash while en route to conduct Chanukah services.

(7) Chaplain Werfel was known as "The Flying Rabbi" because his duties required traveling great distances by plane to serve Army personnel of Jewish faith at outlying posts.

(8) Army Chaplain Rabbi Meir Engel died at the Naval Hospital in Saigon, Vietnam, on December 16, 1964, after faithfully serving his country during World War II, the Korean War, and the Vietnam War.

(9) Army Chaplain Rabbi Morton Singer died on December 17, 1968, in a plane crash while on a mission in Vietnam to conduct Chanukah services.

(10) Army Chaplain Rabbi Herman Rosen died in service of his faith and his country on June 18, 1943.

(11) His son, Air Force Chaplain Solomon Rosen, also died in service of his faith and his country on November 2, 1948.

(12) Army Chaplain Rabbi Nachman Arnoff died in service of his faith and his country on May 9, 1946.

(13) Army Chaplain Rabbi Frank Goldenberg died in service of his faith and his country on May 22, 1946.

(14) Army Chaplain Rabbi Henry Goody died in service of his faith and his country on October 19, 1943.

(15) Army Chaplain Rabbi Samuel Hurwitz died in service of his faith and his country on December 9, 1943.

(16) Air Force Chaplain Rabbi Samuel Rosen died in service of his faith and his country on May 13, 1955.

(17) Air Force Chaplain Rabbi David Sobel died in service of his faith and his country on March 7, 1974.

(18) Chaplains Hill in Arlington National Cemetery memorializes the names of 242 chaplains who perished while serving on active duty in the Armed Forces of the United States.

(19) None of the 13 Jewish chaplains who have died while serving on active duty are memorialized on Chaplains Hill.

Section 4 (b) *Sense of the Congress.*—This section would declare it the sense of Congress that an appropriate site on Chaplains' Hill

in Arlington National Cemetery should be provided for a memorial marker, to be paid for with private funds, to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States, so long as the Secretary of the Army has exclusive authority to approve the design and site of the memorial marker.

Section 5. Sense of Congress Regarding the Service and Sacrifice of Members of the United States Armed Forces Who are Serving in, or Have Served in, Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn

Section 5 (a) *Findings.*—This section would provide that Congress makes the following findings:

(1) That more than 2,000,000 members of the Armed Forces have deployed to the theaters of war since the commencement of Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn.

(2) That hundreds of thousands of such members have deployed for multiple tours of duty, leaving their homes, their families, and in many cases, their civilian jobs.

(3) That more than 5,500 members of the Armed Forces have made the ultimate sacrifice for the United States while serving in Iraq or Afghanistan.

(4) That tens of thousands of additional members of the Armed Forces have been seriously wounded in the line of duty while serving in these theaters of war.

(5) That these members of the Armed Forces have answered the Nation's call to duty, serving bravely and nobly and, in most cases, without fanfare or acclaim.

(6) That these members of the Armed Forces have personified the virtues of patriotism, service, duty, courage, and sacrifice.

(7) and that all Americans recognize the service and sacrifices made by these members of the Armed Forces and their families.

Section 5 (b) *Sense of the Congress.*—Congress—

(1) This section would declare it the sense of Congress that Congress honors the members of the Armed Forces who are serving in Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn and the members and veterans who have previously served in Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn; and

(2) This section would call on all Americans to reflect on the service of these members and veterans and to hold them in a special place of honor now and in the future.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as 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):

TITLE 38, UNITED STATES CODE

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PART II—GENERAL BENEFITS

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CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

2400. Establishment of National Cemetery Administration; composition of Administration.

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2410A. Arlington National Cemetery: other administrative matters.

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§ 2409. Memorial areas in Arlington National Cemetery

(a) * * *

(b) ¿Under *(1) Under* regulations prescribed by the Secretary of the Army *and subject to paragraph (2),* appropriate memorials or markers may be erected in Arlington National Cemetery to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section.

(2)(A) Except for a monument containing or marking interred remains, no monument (or similar structure, as determined by the Secretary of the Army in regulations) may be placed in Arlington National Cemetery except pursuant to the provisions of this subsection.

(B) A monument may be placed in Arlington National Cemetery if the monument commemorates—

(i) the service in the Armed Forces of the individual, or group of individuals, whose memory is to be honored by the monument; or

(ii) a particular military event.

(C) No monument may be placed in Arlington National Cemetery until the end of the 25-year period beginning—

(i) in the case of the commemoration of service under subparagraph (B)(i), on the last day of the period of service so commemorated; and

(ii) in the case of the commemoration of a particular military event under subparagraph (B)(ii), on the last day of the period of the event.

(D) A monument may be placed only in those sections of Arlington National Cemetery designated by the Secretary of the Army forsuch placement and only on land the Secretary determines is not suitable for burial.

(E) A monument may only be placed in Arlington National Cemetery if an appropriate non-governmental entity has agreed to act as a sponsoring organization to coordinate the placement of the monument and—

(i) the construction and placement of the monument are paid for only using funds from private sources;

(ii) the Secretary of the Army consults with the Commission of Fine Arts before approving the design of the monument; and

(iii) the sponsoring organization provides for an independent study on the availability and suitability of alternative locations for the proposed monument outside of Arlington National Cemetery.

(3)(A) The Secretary of the Army may waive the requirement under paragraph (2)(C) in a case in which the monument would commemorate a group of individuals who the Secretary determines—

(i) has made valuable contributions to the Armed Forces that have been ongoing and perpetual for longer than 25 years and are expected to continue on indefinitely; and

(ii) has provided service that is of such a character that the failure to place a monument to the group in Arlington National Cemetery would present a manifest injustice.

(B) If the Secretary waives such requirement under subparagraph (A), the Secretary shall—

(i) make available on an Internet website notification of the waiver and the rationale for the waiver; and

(ii) submit to the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives written notice of the waiver and the rationale for the waiver.

(4) The Secretary of the Army shall provide notice to the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives of any monument proposed to be placed in Arlington National Cemetery. During the 60–day period beginning on the date on which such notice is received, Congress may pass a joint resolution of disapproval of the placement of the monument. The proposed monument may not be placed in Arlington National Cemetery until the later of—

(A) if Congress does not pass a joint resolution of disapproval of the placement of the monument, the date that is 60 days after the date on which notice is received under this paragraph; or

(B) if Congress passes a joint resolution of disapproval of the placement of the monument, and the President signs a veto of such resolution, the earlier of—

(i) the date on which either House of Congress votes and fails to override the veto of the President; or

(ii) the date that is 30 session days after the date on which Congress received the veto and objections of the president.

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§ 2410A. Arlington National Cemetery: other administrative matters

(a) ONE GRAVESITE PER FAMILY.—(1) Not more than one gravesite may be provided at Arlington National Cemetery to a veteran or member of the Armed Forces who is eligible for interment at such cemetery and the family members of such veteran or member who are also eligible for interment at such cemetery.

(2) The Secretary may waive the requirement under paragraph (1) in extreme circumstances, as determined by the Secretary. If the Secretary waives such requirement under this paragraph, the Secretary

shall submit notice of the waiver to the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives.

(b) PROHIBITION AGAINST RESERVATION OF GRAVESITES.—A gravesite at Arlington National Cemetery may not be reserved for an individual before the death of such individual.

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