

109TH CONGRESS
1ST SESSION

S. 959

To establish the Star-Spangled Banner and War of 1812 Bicentennial Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2005

Mr. SARBANES (for himself, Ms. MIKULSKI, Ms. LANDRIEU, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish the Star-Spangled Banner and War of 1812 Bicentennial Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Star-Spangled Banner
5 and War of 1812 Bicentennial Commission Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the War of 1812 served as a crucial test for
9 the United States Constitution and the newly estab-
10 lished democratic Government;

1 (2) vast regions of the new multi-party democ-
2 racy, including the Chesapeake Bay, the Gulf of
3 Mexico and the Niagara Frontier, were affected by
4 the War of 1812;

5 (3) the British occupation of American territory
6 along the Great Lakes had a far-reaching effect on
7 American society;

8 (4) at the Battle of Baltimore, Francis Scott
9 Key wrote the poem that celebrated the flag and
10 later was titled “the Star-Spangled Banner”;

11 (5) the poem led to the establishment of the
12 flag as an American icon and became the words of
13 the national anthem of the United States in 1932;
14 and

15 (6) it is in the national interest to provide for
16 appropriate commemorative activities to maximize
17 public understanding of the meaning of the War of
18 1812 in the history of the United States.

19 (b) PURPOSES.—The purposes of this Act are to—

20 (1) establish the Star-Spangled Banner and
21 War of 1812 Commemoration Commission;

22 (2) ensure a suitable national observance of the
23 War of 1812 by complementing, cooperating with,
24 and providing assistance to the programs and activi-

1 ties of the various States involved in the commemo-
2 ration;

3 (3) encourage War of 1812 observances that
4 provide an excellent visitor experience and beneficial
5 interaction between visitors and the natural and cul-
6 tural resources of the various War of 1812 sites;

7 (4) facilitate international involvement in the
8 War of 1812 observances;

9 (5) support and facilitate marketing efforts for
10 a commemorative coin, stamp, and related activities
11 for the War of 1812 observances; and

12 (6) promote the protection of War of 1812 re-
13 sources and assist in the appropriate development of
14 heritage tourism and economic benefits to the
15 United States.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) **COMMEMORATION.**—The term “commemo-
19 ration” means the commemoration of the War of
20 1812.

21 (2) **COMMISSION.**—The term “Commission”
22 means the Star-Spangled Banner and War of 1812
23 Bicentennial Commission established in section 4(a).

24 (3) **QUALIFIED CITIZEN.**—The term “qualified
25 citizen” means a citizen of the United States with

1 an interest in, support for, and expertise appropriate
2 to the commemoration.

3 (4) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (5) STATES.—The term “States”—

6 (A) means the States of Alabama, Dela-
7 ware, Indiana, Louisiana, Maryland, Michigan,
8 New York, Ohio, and Virginia; and

9 (B) includes agencies and entities of each
10 State.

11 **SEC. 4. STAR-SPANGLED BANNER AND WAR OF 1812 COM-**
12 **MEMORATION COMMISSION.**

13 (a) IN GENERAL.—There is established a commission
14 to be known as the “Star-Spangled Banner and War of
15 1812 Bicentennial Commission”.

16 (b) MEMBERSHIP.—

17 (1) IN GENERAL.—The Commission shall be
18 composed of 23 members, of whom—

19 (A) 9 members shall be qualified citizens
20 appointed by the Secretary after consideration
21 of nominations submitted by the Governors of
22 the States;

23 (B) 3 members shall be qualified citizens
24 appointed by the Secretary after consideration
25 of nominations submitted by the Mayors of the

1 District of Columbia, the City of Baltimore, and
2 the City of New Orleans;

3 (C) 2 members shall be employees of the
4 National Park Service, of whom—

5 (i) 1 shall be the Director of the Na-
6 tional Park Service (or a designee); and

7 (ii) 1 shall be an employee of the Na-
8 tional Park Service having experience rel-
9 evant to the commemoration;

10 (D) 8 members shall be qualified citizens
11 appointed by the Secretary, of whom—

12 (i) 2 shall be recommended by the
13 majority leader of the Senate;

14 (ii) 2 shall be recommended by the
15 minority leader of the Senate;

16 (iii) 2 shall be recommended by the
17 majority leader of the House of Represent-
18 atives; and

19 (iv) 2 shall be recommended by the
20 minority leader of the House of Represent-
21 atives; and

22 (E) 1 member shall be appointed by the
23 Secretary from among individuals with exper-
24 tise in the history of the War of 1812.

1 (2) DATE OF APPOINTMENTS.—The appoint-
2 ment of a member of the Commission shall be made
3 not later than 120 days after the date of enactment
4 of this Act.

5 (c) TERM; VACANCIES.—

6 (1) TERM.—A member shall be appointed for
7 the life of the Commission.

8 (2) VACANCIES.—A vacancy on the Commis-
9 sion—

10 (A) shall not affect the powers of the Com-
11 mission; and

12 (B) shall be filled in the same manner as
13 the original appointment was made.

14 (d) VOTING.—

15 (1) IN GENERAL.—The Commission shall act
16 only on an affirmative vote of a majority of the
17 members of the Commission.

18 (2) QUORUM.—A majority of the members of
19 the Commission shall constitute a quorum.

20 (e) CHAIRPERSON AND VICE CHAIRPERSON.—

21 (1) SELECTION.—The Commission shall select
22 a chairperson and a vice chairperson from among
23 the members of the Commission.

1 (2) ABSENCE OF CHAIRPERSON.—The vice
2 chairperson shall act as chairperson in the absence
3 of the chairperson.

4 (f) INITIAL MEETING.—Not later than 60 days after
5 the date on which all members of the Commission have
6 been appointed, the Commission shall hold the initial
7 meeting of the Commission.

8 (g) MEETINGS.—Not less than twice a year, the Com-
9 mission shall meet at the call of the chairperson or a ma-
10 jority of the members of the Commission.

11 **SEC. 5. DUTIES.**

12 (a) IN GENERAL.—The Commission shall—

13 (1) plan, encourage, develop, execute, and co-
14 ordinate programs, observances, and activities com-
15 memorating the historic events that preceded and
16 are associated with the War of 1812;

17 (2) facilitate the commemoration throughout
18 the United States and internationally;

19 (3) coordinate the activities of the Commission
20 with State commemoration commissions, the Na-
21 tional Park Service, the Department of Defense, and
22 other appropriate Federal agencies;

23 (4) encourage civic, patriotic, historical, edu-
24 cational, religious, economic, tourism, and other or-
25 ganizations throughout the United States to orga-

1 nize and participate in the commemoration to ex-
2 pand the understanding and appreciation of the sig-
3 nificance of the War of 1812;

4 (5) provide technical assistance to States, local-
5 ities, units of the National Park System and non-
6 profit organizations to further the commemoration
7 and commemorative events;

8 (6) coordinate and facilitate scholarly research
9 on, publication about, and interpretation of the peo-
10 ple and events associated with the War of 1812;

11 (7) design, develop, and provide for the mainte-
12 nance of an exhibit that will travel throughout the
13 United States during the commemoration period to
14 interpret events of the War of 1812 for the edu-
15 cational benefit of the citizens of the United States;

16 (8) ensure that War of 1812 commemorations
17 provide a lasting legacy and long-term public benefit
18 leading to protection of the natural and cultural re-
19 sources associated with the War of 1812; and

20 (9) examine and review essential facilities and
21 infrastructure at War of 1812 sites and enable nec-
22 essary improvements to enhance and maximize vis-
23 itor experience at the sites.

24 (b) STRATEGIC PLAN; ANNUAL PERFORMANCE
25 PLANS.—The Commission shall prepare a strategic plan

1 and annual performance plans for any activity carried out
2 by the Commission under this Act.

3 (c) REPORTS.—

4 (1) ANNUAL REPORT.—The Commission shall
5 submit to Congress an annual report that contains
6 a list of each gift, bequest, or devise to the Commis-
7 sion or a member of the Commission with a value
8 of more than \$250, together with the identity of the
9 donor of each gift, bequest, or devise.

10 (2) FINAL REPORT.—Not later than September
11 30, 2015, the Commission shall submit to the Sec-
12 retary and Congress a final report that includes—

13 (A) a summary of the activities of the
14 Commission;

15 (B) a final accounting of any funds re-
16 ceived or expended by the Commission; and

17 (C) the final disposition of any historically
18 significant items acquired by the Commission
19 and other properties not previously reported.

20 **SEC. 6. POWERS.**

21 (a) IN GENERAL.—The Commission may—

22 (1) solicit, accept, use, and dispose of gifts or
23 donations of money, services, and real and personal
24 property related to the commemoration;

1 (2) appoint such advisory committees as the
2 Commission determines to be necessary to carry out
3 this Act;

4 (3) authorize any member or employee of the
5 Commission to take any action the Commission is
6 authorized to take under this Act;

7 (4) use the United States mails in the same
8 manner and under the same conditions as other
9 agencies of the Federal Government; and

10 (5) make grants to communities, nonprofit,
11 commemorative commissions or organizations, and
12 research and scholarly organizations to develop pro-
13 grams and products to assist in researching, pub-
14 lishing, marketing, and distributing information re-
15 lating to the commemoration.

16 (b) LEGAL AGREEMENTS.—

17 (1) IN GENERAL.—In carrying out this Act, the
18 Commission may—

19 (A) procure supplies, services, and prop-
20 erty; and

21 (B) make or enter into contracts, leases, or
22 other legal agreements.

23 (2) LENGTH.—Any contract, lease, or other
24 legal agreement made or entered into by the Com-

1 mission shall not extend beyond the date of termi-
2 nation of the Commission

3 (c) INFORMATION FROM FEDERAL AGENCIES.—

4 (1) IN GENERAL.—The Commission may secure
5 directly from a Federal agency such information as
6 the Commission considers necessary to be to carry
7 out this Act.

8 (2) PROVISION OF INFORMATION.—On request
9 of the Chairperson of the Commission, the head of
10 the agency shall provide the information to the Com-
11 mission.

12 **SEC. 7. COMMISSION PERSONNEL MATTERS.**

13 (a) COMPENSATION OF MEMBERS OF THE COMMIS-
14 SION.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), a member of the Commission shall serve
17 without compensation.

18 (2) FEDERAL EMPLOYEES.—A member of the
19 Commission who is an officer or employee of the
20 Federal Government shall serve without compensa-
21 tion in addition to the compensation received for the
22 services of the member as an officer or employee of
23 the Federal Government.

24 (3) TRAVEL EXPENSES.—A member of the
25 Commission shall be allowed travel expenses, includ-

1 ing per diem in lieu of subsistence, at rates author-
2 ized for an employee of an agency under subchapter
3 I of chapter 57 of title 5, United States Code, while
4 away from the home or regular place of business of
5 the member in the performance of the duties of the
6 Commission.

7 (b) STAFF.—

8 (1) IN GENERAL.—The Chairperson of the
9 Commission may, without regard to the civil service
10 laws (including regulations), appoint and terminate
11 an executive director and such other additional per-
12 sonnel as are necessary to enable the Commission to
13 perform the duties of the Commission.

14 (2) CONFIRMATION OF EXECUTIVE DIREC-
15 TOR.—The employment of an executive director shall
16 be subject to confirmation by the Commission.

17 (3) COMPENSATION.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), the Chairperson of the Com-
20 mission may fix the compensation of the execu-
21 tive director and other personnel without regard
22 to the provisions of chapter 51 and subchapter
23 III of chapter 53 of title 5, United States Code,
24 relating to classification of positions and Gen-
25 eral Schedule pay rates.

1 (B) MAXIMUM RATE OF PAY.—The rate of
2 pay for the executive director and other per-
3 sonnel shall not exceed the rate payable for
4 level V of the Executive Schedule under section
5 5316 of title 5, United States Code.

6 (c) DETAIL OF GOVERNMENT EMPLOYEE.—

7 (1) FEDERAL EMPLOYEES.—

8 (A) IN GENERAL.—At the request of the
9 Commission, the head of any Federal agency
10 may detail, on a reimbursable or nonreimburs-
11 able basis, any of the personnel of the agency
12 to the Commission to assist the Commission in
13 carrying out the duties of the Commission
14 under this Act.

15 (B) CIVIL SERVICE STATUS.—The detail of
16 an employee under subparagraph (A) shall be
17 without interruption or loss of civil service sta-
18 tus or privilege.

19 (2) STATE EMPLOYEES.—The Commission
20 may—

21 (A) accept the services of personnel de-
22 tailed from States (including subdivisions of
23 States); and

24 (B) reimburse States for services of de-
25 tailed personnel.

1 (3) VOLUNTEER AND UNCOMPENSATED SERV-
2 ICES.—Notwithstanding section 1342 of title 31,
3 United States Code, the Commission may accept and
4 use such voluntary and uncompensated services as
5 the Commission determines necessary.

6 (4) SUPPORT SERVICES.—The Director of the
7 National Park Service shall provide to the Commis-
8 sion, on a reimbursable basis, such administrative
9 support services as the Commission may request.

10 (d) PROCUREMENT OF TEMPORARY AND INTERMIT-
11 TENT SERVICES.—The Chairperson of the Commission
12 may procure temporary and intermittent services in ac-
13 cordance with section 3109(b) of title 5, United States
14 Code, at rates for individuals that do not exceed the daily
15 equivalent of the annual rate of basic pay prescribed for
16 level V of the Executive Schedule under section 5316 of
17 that title.

18 (e) FACCA NONAPPLICABILITY.—The Federal Advi-
19 sory Committee Act (5 U.S.C. App.) shall not apply to
20 the Commission.

21 (f) NO EFFECT ON AUTHORITY.—Nothing in this
22 section supersedes the authority of the States or the Na-
23 tional Park Service concerning the commemoration.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 (1) IN GENERAL.—There are authorized to be
3 appropriated to carry out this Act such sums as are
4 necessary for each of fiscal years 2006 through
5 2015.

6 (2) AVAILABILITY OF FUNDS.—Amounts appro-
7 priated under this section for any fiscal year shall
8 remain available until December 31, 2015.

9 **SEC. 9. TERMINATION OF COMMISSION.**

10 (a) IN GENERAL.—The Commission shall terminate
11 on December 31, 2015.

12 (b) TRANSFER OF MATERIALS.—Not later than the
13 date of termination, the Commission shall transfer any
14 documents, materials, books, manuscripts, miscellaneous
15 printed matter, memorabilia, relics, and exhibits, and any
16 materials donated to the Commission, that relate to the
17 War of 1812, to Fort McHenry National Monument and
18 Historic Shrine.

19 (c) DISPOSITION OF FUNDS.—Any funds held by the
20 Commission on the date of termination shall be deposited
21 in the general fund of the Treasury.

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