

OKLAHOMA CITY NATIONAL MEMORIAL ACT OF 1997

OCTOBER 8, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 1849]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1849) to establish the Oklahoma City National Memorial as a unit of the National Park System, to designate the Oklahoma City Memorial Trust, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Oklahoma City National Memorial Act of 1997”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) few events in the past quarter-century have rocked Americans’ perception of themselves and their institutions, and brought together the people of our Nation with greater intensity than the April 19, 1995, bombing of the Alfred P. Murrah Federal Building in downtown Oklahoma City;

(2) the resulting deaths of 168 people, some of whom were children, immediately touched thousands of family members whose lives will forever bear scars of having those precious to them taken away so brutally;

(3) suffering with such families are countless survivors, including children, who struggle not only with the suffering around them, but their own physical and emotional injuries and with shaping a life beyond April 19;

(4) such losses and struggles are personal and, since they resulted from so public an attack, they are also shared with a community, a nation, and the world; and,

(5) the story of the bombing does not stop with the attack itself or with the many losses it caused. The responses of Oklahoma's public servants and private citizens, and those from throughout the nation, remain as a testament to the sense of unity, compassion, even heroism, that characterized the rescue and recovery following the bombing.

(6) During the days immediately following the Oklahoma City bombing, Americans and people from around the world of all races, political philosophies, religions and walks of life responded with unprecedented solidarity and selflessness; and

(7) Given the national and international impact and reaction, the federal character of the site of the bombing, and the significant percentage of the victims and survivors who were federal employees the Oklahoma City Memorial will be established, designed, managed and maintained to educate present and future generations, through a public/private partnership, to work together efficiently and respectfully in developing a National Memorial relating to all aspects of the April 19, 1995, bombing in Oklahoma City.

SEC. 3. DEFINITIONS.

In this Act:

(1) MEMORIAL.—The term “Memorial” means the Oklahoma City National Memorial designated under section 4(a).

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

(3) TRUST.—The term “Trust” means the Oklahoma City National Memorial Trust designated under section 5(a).

SEC. 4. OKLAHOMA CITY NATIONAL MEMORIAL.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States and the World, as a National Memorial certain lands located in Oklahoma City, Oklahoma, there is established as a unit of the National Park System the Oklahoma City National Memorial. The Memorial shall be administered by the Trust in cooperation with the Secretary and in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et. seq.), and the Act of August 21, 1935 (49 Stat 666; 16 U.S.C. 461–467).

(b) The Memorial area shall be comprised of the lands, facilities and structures generally depicted on the map entitled “Oklahoma City National Memorial”, numbered OCNM 001, and dated May 1997 (hereinafter referred to in this Act as the “map”):

(1) Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Trust.

(2) After advising the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives, in writing, the Trust, as established by section 5 of this Act, in consultation with the Secretary, may make minor revisions of the boundaries of the Memorial when necessary by publication of a revised drawing or other boundary description in the Federal Register.

SEC. 5. OKLAHOMA CITY NATIONAL MEMORIAL TRUST.

(a) ESTABLISHMENT.—There is established a wholly owned government corporation to be known as the Oklahoma City National Memorial Trust.

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a board of Directors (hereinafter referred to as the “Board”) consisting of the following 9 members:

(A) The Secretary or the Secretary's designee.

(B) Eight individuals, appointed by the President, from a list of recommendations submitted by the Governor of the State of Oklahoma; and a list of recommendations submitted by the Mayor of Oklahoma City, Oklahoma; and a list of recommendations submitted by the United States Senators from Oklahoma; and, a list of recommendations submitted by United States Representatives from Oklahoma. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 2 shall serve for a term of 3 years; and 2 shall serve a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of that term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) **QUORUM.**—Five members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) **ORGANIZATION AND COMPENSATION.**—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) **LIABILITY OF DIRECTORS.**—Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) **MEETINGS.**—The Board shall meet at least three times per year in Oklahoma City, Oklahoma and at least two of those meetings shall be opened to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding operations maintenance and management of the Memorial; as well as, policy, planning and design issues.

(7) **STAFF.**—

(A) **NON-NATIONAL PARK SERVICE STAFF.**—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(B) **INTERIM PARK SERVICE STAFF.**—At the request of the Trust, the Secretary shall provide for a period not to exceed 2 years, such personnel and technical expertise, as necessary, to provide assistance in the implementation of the provisions of this Act.

(C) **PARK SERVICE STAFF.**—At the request of the Trust, the Secretary shall provide such uniformed personnel, on a reimbursable basis, to carry out day to day visitor service programs.

(D) **OTHER FEDERAL EMPLOYEES.**—At the request of the Trust, the Director of any other Federal agency may provide such personnel, on a reimbursable basis, to carry out day to day visitor service programs.

(8) **NECESSARY POWERS.**—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) **TAXES.**—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of Oklahoma, and its political subdivisions including the county of Oklahoma and the city of Oklahoma City.

(10) **GOVERNMENT CORPORATION.**—

(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

SEC. 6. DUTIES AND AUTHORITIES OF THE TRUST.

(a) **OVERALL REQUIREMENTS OF THE TRUST.**—The Trust shall administer the operation, maintenance, management and interpretation of the Memorial including, but not limited to, leasing, rehabilitation, repair and improvement of property within the Memorial under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with—

(1) the provisions of law generally applicable to units of the National Park Service, including: “An Act to establish a National Park Service, and for other purposes” approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4);

(2) the Act of August 21, 1935 (49 Stat. 666; U.S.C. 461–467);

(3) the general objectives of the “Memorial Mission Statement”, adopted March 26, 1996, by the Oklahoma City Memorial Foundation;

(4) the “Oklahoma City Memorial Foundation Intergovernmental Letter of Understanding”, dated, October 28, 1996; and

(5) the Cooperative Agreement to be entered into between the Trust and the Secretary pursuant to this Act.

(b) AUTHORITIES.—

(1) The Trust may participate in the development of programs and activities at the properties designated by the map, and the Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of Federal, State and local governments as are necessary and appropriate to carry out its authorized activities. Any such agreements may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b).

(2) The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Memorial facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition.

(3) The Trust may not dispose of or convey fee title to any real property transferred to it under this Act.

(4) Federal laws and regulations governing procurement by Federal Agencies shall not apply to the Trust, with the exception of laws and regulations related to Federal Government contracts governing working conditions, and any civil rights provisions otherwise applicable thereto.

(5) The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(c) MANAGEMENT PROGRAM.—Within one year after the enactment of this Act, the Trust, in consultation with the Secretary, shall develop a cooperative agreement for management of those lands, operations and facilities within the Memorial established by this Act. In furtherance of the general purposes of this Act, the Secretary and the Trust shall enter into a Cooperative Agreement pursuant to which the Secretary shall provide technical assistance for the planning, preservation, maintenance, management, and interpretation of the Memorial. The Secretary also shall provide such maintenance, interpretation, curatorial management, and general management as mutually agreed to by the Secretary and the Trust.

(d) DONATIONS.—The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purposes of carrying out its duties.

(e) PROCEEDS.—Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, operation, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Memorial properties under its administrative jurisdiction. The Secretary of the Treasury, at the option of the Trust shall invest excess monies of the Trust in public debt securities which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity.

(f) SUITS.—The Trust may sue and be sued in its own name to the same extent as the Federal Government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Western District of Oklahoma shall have exclusive jurisdiction over any suit filed against the Trust.

(g) BYLAWS, RULES AND REGULATIONS.—The Trust may adopt, amend, repeal, and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the operation of the National Park System and that may be necessary and appropriate to carry out its duties and responsibilities under this Act. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(h) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

SEC. 7. LIMITATIONS ON FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) **IN GENERAL.**—In furtherance of the purposes of this Act, there is hereby authorized the sum of \$5,000,000, to remain available until expended.

(2) **MATCHING REQUIREMENT.**—Amounts appropriated in any fiscal year to carry out the provisions of this Act may only be expended on a matching basis in a ratio of at least one non-Federal dollar to every Federal Dollar. For the purposes of this provision, each non-Federal dollar donated to the Trust or to the Oklahoma City Memorial Foundation for the creation, maintenance, or operation of the Memorial shall satisfy the matching dollar requirement without regard to the fiscal year in which such donation is made.

SEC. 8. ALFRED P. MURRAH FEDERAL BUILDING.

(a) Prior to the construction of the Memorial the Administrator of General Services shall, among other actions, exchange, sell, lease, donate, or otherwise dispose of the site of the Alfred P. Murrah Federal Building, or a portion thereof, to the Trust. Any such disposal shall not be subject to—

(1) the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.);

(2) the Federal Property and Administrative Services Act of 1949 (40 U.S.C. et seq.); or

(3) any other Federal law establishing requirements or procedures for the disposal of Federal property.

SEC. 9. GENERAL ACCOUNTING OFFICE STUDY.

(a) Six years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this Act.

PURPOSE OF THE BILL

The purposes of H.R.1849 are to establish the Oklahoma City National Memorial as a unit of the National Park System, to designate the Oklahoma City Memorial Trust.

BACKGROUND AND NEED FOR LEGISLATION

H. R. 1849 recognizes the national impact and importance of the horrible act of domestic terrorism that occurred on April 19, 1995: the bombing and destruction of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, resulting in the deaths of 168 men, women, and children. The incident brought the nation together to mourn with the thousands of families in Oklahoma City that were directly affected by the deaths of those 168 individuals, the injuries of hundreds of others who survived the blast, and the entire Federal workforce who felt as though they were indirect targets of this terrorism.

On July 26, 1995, the Mayor of Oklahoma City convened the Murrah Federal Building Memorial Task Force, a 350-member volunteer organization, to develop a process by which to address the local, regional, national and international importance and impact of this tragic event. On September 1, 1996, following months of planning, the Task Force officially became the Oklahoma City Memorial Foundation, a 501(c)(3) tax exempt nonprofit organization.

On October 28, 1996, the Foundation formalized an Intergovernmental Letter of Understanding among the city, county, State (including the Governor and the Legislature), and several Federal agencies to pursue Congressional authorization and appropriations for the National Park Service to operate and maintain a national memorial to recognize the significance of the events of April 19, 1995, and its aftermath. Significantly, the Memorial Mission State-

ment, developed through unanimous consensus of the Foundation opens with the lines: *"We come here to remember those who were killed, those who survived and those changed forever. May all who leave here know the impact of violence. May this Memorial offer comfort, strength, peace, hope, and serenity."*

The Foundation conducted an international design competition for this memorial, with 624 designs submitted from all 50 States and 23 countries. The selection was made on July 1, 1997. President Clinton has reviewed the design and called it "a memorial of true power and amazing grace." Furthermore, the President stated, "this tragedy was a national one, and the memorial should be recognized and embraced and supported by the nation."

H. R. 1849 is a unique approach to establishing a unit of the National Park System. The Oklahoma City National Memorial will be a local, state, and Federal government partnership, with coordination with the private sector and public donations. The Memorial will consist of two distinct components: an interactive learning museum together with an institute dedicated to the prevention of terrorism and violence; and a remembrance component consisting of a landscaped garden and monument encompassing the site of the former Alfred P. Murrah Federal Building.

The bill provides for the establishment of a unit of the National Park System, but authorizes a wholly owned government corporation, the Oklahoma City National Memorial Trust, as the entity responsible for the administration, operation, maintenance, management and interpretation of the Memorial, in consultation and coordination with the Secretary of the Interior, and under a Cooperative Agreement with the National Park Service. The Trust will be governed by a nine-member Board of Directors, appointed by the President, which has the authority to appoint an executive director and staff. Interim staff are authorized for two years to assist in the development of the Memorial. Permanent National Park Service staff, and the ability to retain staff from other Federal agencies, are provided for on a reimbursable basis.

H. R. 1849 authorizes \$5 million in Federal funds as a one-time appropriation for construction and maintenance of the Memorial. The bill stipulates that any Federal expenditures must be matched by non-Federal funds, dollar for dollar. The State of Oklahoma Legislature will provide \$5 million in appropriated funds, and the Oklahoma City Memorial Trust will raise an additional \$14 million or more through private donations.

H. R. 1849 provides for the U. S. General Services Administration to transfer portions of the former Alfred P. Murrah Federal Building site to the Trust at no cost, and provides that the Trust will acquire two non-Federal buildings adjacent to the site for use as the museum and institute.

COMMITTEE ACTION

H.R. 1849 was introduced on June 10, 1997, by Congressman Frank D. Lucas (R-OK). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks and Public Lands. On September 9, 1997, the Subcommittee held a hearing on H.R. 1849, where the Mayor of Oklahoma City, the Chairman of the Oklahoma City Memorial Founda-

tion and others testified in strong support of the bill. The National Park Service and the U. S. General Services Administration testified on behalf of the Administration. The General Services Administration supported the bill. The National Park Service expressed support for the establishment of the Memorial, but had concerns about the establishment of the Oklahoma City Memorial Trust. On September 17, 1997, the Full Resources Committee met to consider H.R. 1849, which was discharged from the Subcommittee on National Parks and Public Lands. An amendment to clarify the management authority of the Oklahoma City National Memorial, as a unit of the National Park System, between the Oklahoma City Memorial Trust and the Secretary of the Interior was offered by Congressman Joel Hefley (R-CO) and adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote, in the presence of a quorum.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in H.R. 1849 are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 1849.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1849. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1849 does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. Enactment of H.R. 1849, according to the Congressional Budget Office, could result in direct spending of the collections of the Oklahoma City National Memorial Trust.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1849.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1849 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 3, 1997.

Hon. FRANKLIN D. RAINES,
Director, Office of Management and Budget,
Washington, DC.

DEAR MR. RAINES: The Congressional Budget Office has prepared the enclosed estimate of the pay-as-you-go effects of S. 871, the Oklahoma City National Memorial Act of 1997.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

S. 871—Oklahoma City National Memorial Act of 1997

S. 871 would establish the Oklahoma City National Memorial as a unit of the National Park Service (NPS). The act also would establish the Oklahoma City National Memorial Trust, a wholly owned government corporation, to develop, operate, and maintain the new memorial. Section 6 of the act would authorize the trust to accept and use donations from nonfederal sources. Based on information from the Office of Management and Budget, CBO expects that the collections by the trust would be recorded as offsetting receipts and spending of the amounts would represent direct spending. Hence, pay-as-you-go procedures would apply to the act.

Excess monies of the trust would be invested in public securities by the Secretary of the Treasury at the trust's request. All proceeds received by the trust (including donations, recreation fees, and interest on invested funds) would be available without further appropriation. Section 7 would authorize the appropriation of \$5 million for purposes of the legislation.

Based on information from the Oklahoma City Memorial Foundation, CBO estimates that the trust would collect and spend a total of about \$19 million of donated funds over the next three years to create the new memorial. Outlays would likely lag behind collections, but in aggregate they would offset each other over the development period. Also, beginning in 2000, CBO estimates that the trust would collect and spend recreation fees and other proprietary receipts of between \$2 million and \$3 million annually to operate and maintain the memorial. All such spending would occur without

appropriations action, as would the use of any amounts earned as interest on investments (which would likely be insignificant). The net effect of these transactions on direct spending is summarized in the following table.

	By fiscal year, in millions of dollars									
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Change in outlays	-11	5	5	1	0	0	0	0	0	0
Change in receipts ¹ .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

¹ Not applicable.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 1849 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 1849 would make no changes in existing law.

