

Committee on Natural Resources

Rob Bishop, Chairman
Mark-up Memorandum

July 24, 2017

To: All Subcommittee on Federal Lands Members

From: Majority Committee Staff – Terry Camp
Subcommittee on Federal Lands (x 6-7736)

Mark-up: **H.R. 873 (Rep. Mike Gallagher)**, To authorize the Global War on Terror Memorial Foundation to establish the National Global War on Terrorism Memorial as a commemorative work in the District of Columbia, and for other purposes.
July 25 & 26, 2017; 1324 Longworth HOB.

H.R. 873 (Rep. Gallagher), “Global War on Terrorism War Memorial Act”

Summary of the Bill

H.R. 873, introduced by Congressman Mike Gallagher (R-WI-8), authorizes the Global War on Terror Memorial Foundation to establish the National Global War on Terrorism Memorial as a commemorative work on federal land in the District of Columbia to commemorate and honor the members of the Armed Forces who served on active duty in support of the Global War on Terrorism.

Cosponsors

[146 Cosponsors](#)

Background

In response to the terrorist attacks of September 11, 2001, President George W. Bush launched the Overseas Contingency Operations, formally known as the Global War on Terrorism (GWOT).¹ Since 2001, more than five million men and women have served in the U.S. armed forces. All named campaigns (e.g., Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn, etc.) fall under the umbrella of the GWOT.

The Global War on Terrorism War Memorial Act, H.R. 873, would authorize the Global War on Terrorism Memorial Foundation—a 501(c)(3) non-profit organization—to begin the Commemorative Works Act (CWA) process to establish a memorial on federal land in the

¹ Defense Causality Analysis System. U.S. Department of Defense. Access July 5, 2017.
https://www.dmdc.osd.mil/dcas/pages/casualties_gwt_combined.xhtml

District of Columbia or its environs to commemorate and honor the members of the United States Armed Forces who served on active duty in support of the GWOT.

In 1986, the CWA was enacted to create a statutory process for the creation, design, and construction of commemorative works in the District of Columbia.² The CWA codified procedures for authorizing and siting commemorative works when the potential location of a memorial will be on federal land is administered by the National Park Service or the General Services Administration. The Act delegated responsibility for overseeing design, construction, and maintenance to the Secretary of the Interior or the Administrator of the General Services Administration, and several other federal entities, including the National Capital Planning Commission, the Commission of Fine Arts, and the National Capital Memorial Advisory Commission.

The CWA contains a specific requirement for military commemoratives. For military works, the CWA requires Congress to consider legislation only for the commemoration of “a war or similar major military conflict or a branch of the armed forces” that has been designated as officially ended for at least 10 years.³ The Global War on Terrorism Memorial Act, as introduced, waives this requirement of the CWA, thus authorizing the Global War on Terror Memorial now, rather than ten years following the end of the GWOT.

Proponents of the proposed memorial argue that as the longest conflict ever fought by the United States, the GWOT should be memorialized while veterans have an opportunity to take part in determining the memorial’s scope and design. Proponents note that many World War II veterans never had the chance to see the World War II Memorial completed, because it was not finished until 59 years after the end of the war. Similarly, the World War I Memorial was not authorized until 2014,⁴ nearly 96 years after the Treaty of Versailles was signed. Additionally, supporters advocate that because the nature of war has changed, the CWA should be amended to allow for more timely military commemorations.

Opponents of the proposed memorial argue that while the GWOT Memorial was a subject deserving of a memorial, the intent of the CWA was to allow for a war or military conflict to be declared over for at least 10 years prior to commemoration efforts. Additionally, opponents cite the precedent of providing an exemption to CWA provisions and whether granting an exemption to one group might set a precedent for future groups to seek a similar exemption.

On October 4, 2016, the National Capital Memorial Advisory Commission met to discuss H.R. 5999 (114th Congress), a bill similar to H.R. 873, introduced by former Representative Ryan Zinke (R-MT). The Commission heard testimony in support of the legislation from Representative Zinke, as well as from Mr. Andrew Brennen, Executive Director of the Global War on Terror Memorial Foundation, and Mr. Todd Bowers, a Board Member of the Foundation. At the meeting, the Commission did not reach a consensus view on the legislation. Some Commissioners noted that it was the obligation of the Commission to recommend opposition to

² 40U.S.C. §§ 8901-8909

³ 40 U.S.C § 8903(b)

⁴ P.L. 113-291, § 3091, 128 Stat. 3858, December 19, 2014.

the bill because the conflict is ongoing and thus inconsistent with the CWA. Other Commissioners noted that the nature of warfare has changed over the years that the CWA has been in place, and that modern conflicts may not have distinct end dates, making it difficult for memorials to these conflicts to comply with the CWA.

The House Natural Resources Subcommittee on Federal Lands held a hearing on H.R. 873 on July 14, 2017.

Major Provisions

- Authorizes the Global War on Terror Memorial Foundation to establish the National Global War on Terrorism Memorial as a commemorative work on Federal land in the District of Columbia and its environs to commemorate and honor the members of the Armed Forces that served on active duty in support of the Global War on Terrorism.
- Waives the Commemorative Works Act requirement (40 U.S.C. §8903(b)) that a commemorative work to a war or similar major military conflict may not be authorized until at least 10 years after the officially designated end of such war or conflict.
- Prohibits use of Federal funds to pay for any expense related to the establishment of the memorial.

Cost

A CBO cost analysis has not yet been completed for this bill.

Administration Position

The Administration position is unknown at this time. However, the National Park Service testified in support of similar legislation introduced this Congress as S. 926 by Senator Joni Ernst (R-IA).⁵

Anticipated Amendments

None.

Effect on Current Law (Ramseyer)

None.

⁵ Statement of Robert Vogel before the Senate Energy & Natural Resources Subcommittee on National Parks. July 19, 2017. https://www.energy.senate.gov/public/index.cfm/files/serve?File_id=02F317B0-F78F-40F7-94FB-FCDCB3E76640