SEC. 2805. AUTHORITY FOR USE OF MULTIPLE APPROPRIATIONS FOR INFRASTRUCTURE PROJECTS AT ARLINGTON NATIONAL CEMETERY.

(a) USE OF O&M FUNDS FOR SUSTAINMENT, RESTORATION, AND MODERNIZATION OF REAL PROPERTY.—The Secretary of the Army may use funds authorized to be appropriated for Operations and Maintenance, Army, for fiscal year 2013 for sustainment, restoration, and modernization of real property at Arlington National Cemetery in Arlington, Virginia.

(b) USE OF MILCON FUNDS TO SUPPORT CEMETERY EXPANSION AND INFRASTRUCTURE IMPROVEMENT.—The Secretary of the Army may use funds authorized to be appropriated for Military Construction, Army, for fiscal year 2013 as follows:

(1) To undertake planning and design, unspecified minor military construction projects, and other military construction projects authorized by law at Arlington National Cemetery in Arlington, Virginia.

(2) To carry out military construction projects not covered by paragraph (1) and not otherwise authorized by law to improve or support the expansion of Arlington National Cemetery, subject to subsection (c).

(c) LIMITATION ON START OF NEW CONSTRUCTION PROJECTS.—(1) A military construction project may be carried out under subsection (b)(2) only with notification to the congressional defense committees that is provided at least 10 days before the start of the project. Such notification shall include—

(A) the justification for the project and the current estimate of the cost of the project;

(B) the justification for carrying out the project under this section; and

(C) a statement of the source of the funds to be used.

(2) In this subsection, the term "congressional defense committees" has the meaning given that term is section 101(a)(16) of title 10, United States Code.

(d) ADDITIONAL AUTHORITY.—The authority provided by this section is in addition to the authority to use the Cemeterial Expenses, Army, appropriation for necessary expenses of the same general purpose.

Section-by-Section Analysis

This proposal would authorize the Secretary of the Army to conduct sustainment, repair and modernization (SRM) (repair and maintenance) work at Arlington National Cemetery (ANC) with the fiscal year 2013 (FY13) Operation and Maintenance, Army (OMA) appropriation. It would also authorize the Secretary to conduct improvement projects at ANC with Military Construction, Army (MCA) funds. Furthermore, if the Secretary believes it necessary to conduct projects for improvement that exceed $2 million and are not authorized in a Military Construction Authorization Act, the Secretary would be able to undertake such projects after compliance with a congressional notice-and-wait procedure.

Currently, the Army programs and budgets funding for SRM, improvement, and other needs at ANC in the Cemeterial Expenses, Army (CEA) account. The Military Construction and Veterans Affairs and Related Agencies Appropriations Acts provide CEA funding each year, but the amounts of CEA they appropriate are only a fraction of what is necessary to correct the extant deficiencies in available space, facilities, and infrastructure at ANC. The amounts expected to be appropriated to CEA for FY13 are insufficient for the Secretary of the Army to meet his responsibility under 10 U.S.C. 4721 to fund ANC "in a manner and to standards that fully honor the service and sacrifices" of those buried at Arlington.

It is not possible to solve this shortage by transfer of other appropriations into CEA because there are no statutory transfer authorities that would enable that. Moreover, the Army cannot increase the amount of CEA it requests for FY13 due to constraints of the Budget Control Act of 2011 (Public Law 112-25) and other budget limitations. As such, this proposal would allow the Army solve ANC's deficiencies using Army OMA and MCA appropriations. At this time, it is not legally possible to use OMA and MCA, in addition to the CEA account, to undertake projects at ANC because the Army has previously elected to fund ANC in the CEA account. This proposal would resolve that problem by providing the Secretary of the Army with the temporary additional legal authority necessary to correct the critical deficiencies at ANC with projects funded by OMA and MCA appropriations otherwise available to the Secretary, while not supplanting standing authority and funds for improvements and sustainment of ANC.

Budget Implications: Subject to appropriation, this section would cost $103 million in FY13 in MCA, and provide approximately $25 million in OMA to address infrastructure systems that have either been neglected or not been maintained for the last 20 years and are beginning to present life, health, and safety concerns.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2013	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	84.0	0	0	0	0	MCA	01	080788
Army	19.0	0	0	0	0	MCA	03	066746
Army	25.0	0	0	0	0	OMA	01	132
Total	128.0	0	0	0	0			

Changes to Existing Law: This proposal would not change the text of an existing statute.