SEC. 1004. MILITARY MUSEUMS' ACCEPTANCE OF PRIVATE SUPPORT.

(a) MUSEUM SUPPORT AUTHORITY.—

(1) GENERAL.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2615. Military museum support

"(a) ACCEPTANCE OF GIFTS.—Notwithstanding section 1342 of title 31, the Secretary concerned may accept services from a nonprofit entity to support a military museum program.

"(b) LIMITATION ON USE OF GIFT FUNDS.—Any gift made for the purpose of assisting in the development, operation, maintenance, and management of, or for the acquisition of collections for, a military museum and deposited into a General Gift Fund pursuant to section 2601 of this title shall be available only for the purpose of development, operation, maintenance, and management of, or for the acquisition of collections for, a military museum program.

"(c) SOLICITATION OF GIFTS.—Under regulations prescribed under this section, the Secretary concerned may solicit from any person or public or private entity, for the use and benefit of a military museum program, a gift of books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat materiel.

"(d) LEASING.—The Secretary concerned may, in accordance with section 2667 of this title, lease real and personal property of a military museum, but not including any part of its collection, to a nonprofit entity for purposes related to the military museum program. Money rentals received from any such lease may be retained and spent by the Secretary to support the military museum program.

"(e) COOPERATIVE AGREEMENTS.—The Secretary concerned may enter into a cooperative agreement with a nonprofit entity for purposes related to support of a military museum program.

"(f) EMPLOYEE STATUS.—For purposes of this section, employees or personnel of a nonprofit entity may not be considered to be employees of the United States.

"(g) REGULATIONS.—

"(1) IN GENERAL.—The Secretary of Defense shall prescribe regulations to implement this section. Such regulations shall apply uniformly throughout the Department of Defense.

"(2) LIMITATION.—Such regulations shall provide that solicitation of a gift, acceptance of a gift (including a gift of services), or use of a gift under this section may not occur if the nature or circumstances of the solicitation, acceptance, or use would compromise the integrity or the appearance of integrity of any program of the Department of Defense or any individual involved in such program.

"(h) DEFINITIONS.—In this section:

"(1) The term 'military museum program' may include an individual museum.

"(2) The term 'nonprofit entity' means any entity—

"(A) qualifying as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, and

"(B) with a primary purpose of supporting a military museum program."

"(3) The term 'Secretary concerned' includes the Secretary of Defense with respect to matters concerning the Defense Agencies.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2615. Military museum support.".

(b) CONFORMING AMENDMENT.—Section 2667(e)(1) of such title is amended by striking subparagraph (E).

Section by Section Analysis

This proposal would add a new section to the chapter 155 of title 10 on gifts to allow military museums to accept certain additional support from nonprofit private entities established to support those museums.

Subsection (a) of the new section would explicitly allow the Secretary concerned to accept services from nonprofit entities to support the military museum program.

Subsection (b) of the new section would provide that any gifts or contributions to a museum must be spent on the museum program.

Subsection (c) of the new section would allow the Secretary concerned to directly solicit items for the collections of the museum program.

Subsection (d) of the new section would allow the Secretary concerned to lease real or personal property, but not including its collections, to such an entity and retain the proceeds for support of the museum program.

Subsection (e) of the new section would allow the Secretary concerned to enter into cooperative agreements with such an entity to support the museum program.

Subsection (f) of the new section would provide that the nonprofit's employees and personnel are not considered to be employees of the United States.

Subsection (g) of the new section would provide for issuance of regulations by the Secretary of Defense to implement the section and to prohibit solicitation, acceptance, or use of a gift if it would compromise the integrity of a DoD program or employee (adopting the language of section 593(b) of the National Defense Authorization Act for Fiscal Year 2008 (10 U.S.C. 2601 note) applied to solicitations under 10 U.S.C. 2601 and 2608).

Subsection (h) of the new section would define the 'military museum program' as also including a single museum and the 'nonprofit entity' as one organized under section 501(c)(3) of the Internal Revenue Code with a primary purpose of supporting the museum program. It also defines 'Secretary concerned' as including the Secretary of Defense for matters relating to Defense Agencies.

The proposal would also repeal subparagraph (E) of 10 U.S.C. 2667(e)(1), which requires that lease proceeds from a military museum be spent only at that museum. This proposal allows such proceeds to be spent in support of that DoD component's museum

program, since the museums are not stand-alone entities but part of a unified effort to train and instruct our soldiers, sailors, airmen, and marines, as well as inform our civilian employees and the public.

It will be up to the discretion of the Secretary and the private entity to determine whether the support would be applied to a particular museum or to the entire museum program. Any such support would be in addition to voluntary services offered under 10 U.S.C. § 1588. Section 1588 lends itself to an interpretation that it applies to individuals, while the services offered under this section would almost always be from organizations. This authority would be in addition to any authority under section 1588.

There has been some concern that gifts to a museum are not always used for the museum program. This proposal would require that any such gifts are used exclusively for the museum program.

The museum program is currently restrained from seeking contributions of historic and other items for its collections by the general prohibition on soliciting by Federal employees. This proposal would explicitly allow such solicitation to allow a museum program to, e.g., seek a bequest of a historic item that it might otherwise have to purchase when it was placed on the open market. Because of the potential for abuse in this area, it will be necessary for the Secretary of Defense to issue uniform regulations governing such solicitations to avoid inappropriate contacts with, e.g., prohibited sources, that might bring into question the impartiality of the Department in its other activities such as procurement of weapons systems

The types of support provided for in this proposal—leasing and cooperative agreements—are similar to those Congress recently provided to the Secretary of the Air Force for support of the Air Force Academy athletic program (10 U.S.C. § 9362).

Many military museums have private entities established to support them. These entities hold functions, support events, and otherwise assist in the maintenance and utilization of the museum. In doing so, they further the military mission of ensuring that the personnel of the Armed Forces and the public have a means to learn from America's military history. This proposal would allow more direct and substantial interaction between the museums and their private support organizations and remove some of the overhead currently associated with application of the gift requirements of 10 U.S.C. § 2601.

The term 'military museum program' is defined as including single museums when appropriate. There is at least one tri-service museum, formerly at the Armed Forces Institute of Pathology, that is not part of the general museum program of a particular DoD Component.

The term 'non-profit entity' is defined as an Internal Revenue Code 501(c)(3) exempt organization with a primary purpose of supporting the museum program. Such an organization may also have other primary purposes, such as is the case with the Naval Academy Foundation.

Budget Implications: This proposal would not result in any additional expenditure of appropriated funds. It might have the effect of off-setting the current use of appropriated funds. However, such a situation would depend on the individual circumstances of agreements with private entities at particular locations and is so speculative that it cannot be projected. Among many variables, it is uncertain whether any income received for the

museum programs under this provision would be used to off-set current expenditures since any such income would more likely be applied in addition to current expenditures of appropriated funds (it would, for instance, be difficult to use such income to off-set current operating costs since the income would not necessarily be consistent and reliable enough to base an operating budget on it). Likewise, the receipt of services would not necessarily be sufficiently continuous to be reliable for purposes of building a budget for operating a museum. The following is a conservative **estimate** of nonappropriated funding that could be received under this proposal.

RESOURCE REQUIREMENTS ($MILLIONS) REFLECTED IN PRESIDENT'S BUDGET								
	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	Appropriation From	Budget Activity	Dash-1 Line Item
USA	+$0.01	+$0.01	+$0.01	+$0.01	+$0.01	0	0	0
USN	+$0.01	+$0.01	+$0.01	+$0.01	+$0.01	0	0	0
USAF	+$0.01	+$0.01	+$0.01	+$0.01	+$0.01	0	0	0
USMC	+$0.01	+$0.01	+$0.01	+$0.01	+$0.01	0	0	0
Total	+$0.04	+$0.04	+$0.04	+$0.04	+$0.04			

Changes to Existing Law: This proposal would add a new section to title 10, United States Code. The text of the new section appears in the legislative proposal above.