

GUAM WORLD WAR II LOYALTY RECOGNITION ACT

MAY 7, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 1595]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1595) to implement the recommendations of the Guam War Claims Review Commission, 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 all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Guam World War II Loyalty Recognition Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Recognition of the suffering and loyalty of the residents of Guam.
- Sec. 3. Payments for Guam World War II claims.
- Sec. 4. Adjudication.
- Sec. 5. Grants program to memorialize the occupation of Guam during world war II.
- Sec. 6. Authorization of Appropriations.

SEC. 2. RECOGNITION OF THE SUFFERING AND LOYALTY OF THE RESIDENTS OF GUAM.

(a) RECOGNITION OF THE SUFFERING OF THE RESIDENTS OF GUAM.—The United States recognizes that, as described by the Guam War Claims Review Commission, the residents of Guam, on account of their United States nationality, suffered un-speakable harm as a result of the occupation of Guam by Imperial Japanese military forces during World War II, by being subjected to death, rape, severe personal injury, personal injury, forced labor, forced march, or internment.

(b) RECOGNITION OF THE LOYALTY OF THE RESIDENTS OF GUAM.—The United States forever will be grateful to the residents of Guam for their steadfast loyalty to the United States of America, as demonstrated by the countless acts of courage they performed despite the threat of death or great bodily harm they faced at the hands of the Imperial Japanese military forces that occupied Guam during World War II.

SEC. 3. PAYMENTS FOR GUAM WORLD WAR II CLAIMS.

(a) **PAYMENTS FOR DEATH, PERSONAL INJURY, FORCED LABOR, FORCED MARCH, AND INTERNMENT.**—Subject to section 6(a), after receipt of certification pursuant to section 4(b)(8) and in accordance with the provisions of this Act, the Secretary of the Treasury shall make payments as follows:

(1) **RESIDENTS INJURED.**—The Secretary shall pay compensable Guam victims who are not deceased before any payments are made to individuals described in paragraphs (2) and (3) as follows:

(A) If the victim has suffered an injury described in subsection (c)(2)(A), \$15,000.

(B) If the victim is not described in subparagraph (A) but has suffered an injury described in subsection (c)(2)(B), \$12,000.

(C) If the victim is not described in subparagraph (A) or (B) but has suffered an injury described in subsection (c)(2)(C), \$10,000.

(2) **SURVIVORS OF RESIDENTS WHO DIED IN WAR.**—In the case of a compensable Guam decedent, the Secretary shall pay \$25,000 for distribution to eligible survivors of the decedent as specified in subsection (b). The Secretary shall make payments under this paragraph after payments are made under paragraph (1) and before payments are made under paragraph (3).

(3) **SURVIVORS OF DECEASED INJURED RESIDENTS.**—In the case of a compensable Guam victim who is deceased, the Secretary shall pay \$7,000 for distribution to eligible survivors of the victim as specified in subsection (b). The Secretary shall make payments under this paragraph after payments are made under paragraphs (1) and (2).

(b) **DISTRIBUTION OF SURVIVOR PAYMENTS.**—Payments under paragraph (2) or (3) of subsection (a) to eligible survivors of an individual who is a compensable Guam decedent or a compensable Guam victim who is deceased shall be made as follows:

(1) If there is living a spouse of the individual, but no child of the individual, all of the payment shall be made to such spouse.

(2) If there is living a spouse of the individual and one or more children of the individual, one-half of the payment shall be made to the spouse and the other half to the child (or to the children in equal shares).

(3) If there is no living spouse of the individual, but there are one or more children of the individual alive, all of the payment shall be made to such child (or to such children in equal shares).

(4) If there is no living spouse or child of the individual but there is a living parent (or parents) of the individual, all of the payment shall be made to the parents (or to the parents in equal shares).

(5) If there is no such living spouse, child, or parent, no payment shall be made.

(c) **DEFINITIONS.**—For purposes of this Act:

(1) **COMPENSABLE GUAM DECEDENT.**—The term “compensable Guam decedent” means an individual determined under section 4(a)(1) to have been a resident of Guam who died or was killed as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, and whose death would have been compensable under the Guam Meritorious Claims Act of 1945 (Public Law 79–224) if a timely claim had been filed under the terms of such Act.

(2) **COMPENSABLE GUAM VICTIM.**—The term “compensable Guam victim” means an individual determined under section 4(a)(1) to have suffered, as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, any of the following:

(A) Rape or severe personal injury (such as loss of a limb, dismemberment, or paralysis).

(B) Forced labor or a personal injury not under subparagraph (A) (such as disfigurement, scarring, or burns).

(C) Forced march, internment, or hiding to evade internment.

(3) **DEFINITIONS OF SEVERE PERSONAL INJURIES AND PERSONAL INJURIES.**—The Foreign Claims Settlement Commission shall promulgate regulations to specify injuries that constitute a severe personal injury or a personal injury for purposes of subparagraphs (A) and (B), respectively, of paragraph (2).

SEC. 4. ADJUDICATION.

(a) **AUTHORITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION.**—

(1) **IN GENERAL.**—The Foreign Claims Settlement Commission is authorized to adjudicate claims and determine eligibility for payments under section 3.

(2) RULES AND REGULATIONS.—The chairman of the Foreign Claims Settlement Commission shall prescribe such rules and regulations as may be necessary to enable it to carry out its functions under this Act. Such rules and regulations shall be published in the Federal Register.

(b) CLAIMS SUBMITTED FOR PAYMENTS.—

(1) SUBMITTAL OF CLAIM.—For purposes of subsection (a)(1) and subject to paragraph (2), the Foreign Claims Settlement Commission may not determine an individual is eligible for a payment under section 3 unless the individual submits to the Commission a claim in such manner and form and containing such information as the Commission specifies.

(2) FILING PERIOD FOR CLAIMS AND NOTICE.—All claims for a payment under section 3 shall be filed within one year after the Foreign Claims Settlement Commission publishes public notice of the filing period in the Federal Register. The Foreign Claims Settlement Commission shall provide for the notice required under the previous sentence not later than 180 days after the date of the enactment of this Act. In addition, the Commission shall cause to be publicized the public notice of the deadline for filing claims in newspaper, radio, and television media on Guam.

(3) ADJUDICATORY DECISIONS.—The decision of the Foreign Claims Settlement Commission on each claim shall be by majority vote, shall be in writing, and shall state the reasons for the approval or denial of the claim. If approved, the decision shall also state the amount of the payment awarded and the distribution, if any, to be made of the payment.

(4) DEDUCTIONS IN PAYMENT.—The Foreign Claims Settlement Commission shall deduct, from potential payments, amounts previously paid under the Guam Meritorious Claims Act of 1945 (Public Law 79–224).

(5) INTEREST.—No interest shall be paid on payments awarded by the Foreign Claims Settlement Commission.

(6) REMUNERATION PROHIBITED.—No remuneration on account of representational services rendered on behalf of any claimant in connection with any claim filed with the Foreign Claims Settlement Commission under this Act shall exceed one percent of the total amount paid pursuant to any payment certified under the provisions of this Act on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be fined not more than \$5,000 or imprisoned not more than 12 months, or both.

(7) APPEALS AND FINALITY.—Objections and appeals of decisions of the Foreign Claims Settlement Commission shall be to the Commission, and upon rehearing, the decision in each claim shall be final, and not subject to further review by any court or agency.

(8) CERTIFICATIONS FOR PAYMENT.—After a decision approving a claim becomes final, the chairman of the Foreign Claims Settlement Commission shall certify it to the Secretary of the Treasury for authorization of a payment under section 3.

(9) TREATMENT OF AFFIDAVITS.—For purposes of section 3 and subject to paragraph (2), the Foreign Claims Settlement Commission shall treat a claim that is accompanied by an affidavit of an individual that attests to all of the material facts required for establishing eligibility of such individual for payment under such section as establishing a prima facie case of the individual's eligibility for such payment without the need for further documentation, except as the Commission may otherwise require. Such material facts shall include, with respect to a claim under paragraph (2) or (3) of section 3(a), a detailed description of the injury or other circumstance supporting the claim involved, including the level of payment sought.

(10) RELEASE OF RELATED CLAIMS.—Acceptance of payment under section 3 by an individual for a claim related to a compensable Guam decedent or a compensable Guam victim shall be in full satisfaction of all claims related to such decedent or victim, respectively, arising under the Guam Meritorious Claims Act of 1945 (Public Law 79–224), the implementing regulations issued by the United States Navy pursuant thereto, or this Act.

(11) PENALTY FOR FALSE CLAIMS.—The provisions of section 1001 of title 18 of the United States Code (relating to criminal penalties for false statements) apply to claims submitted under this subsection.

SEC. 5. GRANTS PROGRAM TO MEMORIALIZE THE OCCUPATION OF GUAM DURING WORLD WAR II.

(a) ESTABLISHMENT.—Subject to section 6(b) and in accordance with this section, the Secretary of the Interior shall establish a grants program under which the Secretary shall award grants for research, educational, and media activities that memo-

realize the events surrounding the occupation of Guam during World War II, honor the loyalty of the people of Guam during such occupation, or both, for purposes of appropriately illuminating and interpreting the causes and circumstances of such occupation and other similar occupations during a war.

(b) ELIGIBILITY.—The Secretary of the Interior may not award to a person a grant under subsection (a) unless such person submits an application to the Secretary for such grant, in such time, manner, and form and containing such information as the Secretary specifies.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) GUAM WORLD WAR II CLAIMS PAYMENTS AND ADJUDICATION.—For purposes of carrying out sections 3 and 4, there are authorized to be appropriated \$126,000,000, to remain available for obligation until September 30, 2012, to the Foreign Claims Settlement Commission. Not more than 5 percent of funds made available under this subsection shall be used for administrative costs.

(b) GUAM WORLD WAR II GRANTS PROGRAM.—For purposes of carrying out section 5, there are authorized to be appropriated \$5,000,000, to remain available for obligation until September 30, 2012.

PURPOSE OF THE BILL

The purpose of H.R. 1595, as ordered reported, is to implement the recommendations of the Guam War Claims Review Commission.

BACKGROUND AND NEED FOR LEGISLATION

On December 8, 1941, during World War II, invading Imperial Japanese military forces seized control of Guam from the United States. The occupation of Guam lasted for nearly three years, during which time, the people of Guam, estimated at nearly 22,000, were subjected to death, public execution by beheading, personal injury, forced labor, forced march, rape, and internment. United States Armed Forces returned and liberated the people of Guam from enemy occupation on July 21, 1944.

After the United States regained administration over Guam, an effort to compensate the residents of Guam for their suffering was made. In 1945, Congress passed the Guam Meritorious Claims Act (GMCA), Public Law 79-224, which authorized the Secretary of the Navy to appoint a claims commission to adjudicate as well as settle war claims less than \$5,000. Any claims of \$5,000 or more were to be specifically forwarded to and approved by Congress.

Public Law 107-333, sponsored by former Congressman Robert A. Underwood of Guam authorized the establishment of the Guam War Claims Review Commission (Review Commission). The Review Commission, appointed by the Secretary of the Interior, was charged with determining whether there was parity of war claims paid to Guam residents in 1945 under the GMCA as compared with awards made under other federal laws to similarly affected United States citizens or nationals in territory occupied by Imperial Japanese forces during World War II. In addition, the Review Commission reviewed the Hopkins Commission Report (Hopkins Report) for interpretation and comparison. The Hopkins Report was submitted to Congress in 1947 and provided a general overview of the progress of implementing the GMCA, as well as the status of post-war government in both Guam and American Samoa. It is also important to note that the Review Commission held public hearings on Guam, at which it received testimony from both survivors of the occupation as well as descendants of survivors and descendants of those who were executed during the war. After careful study and review of the historical records addressing war claims and public

hearings held on Guam, the Review Commission submitted its final report to Congress on June 10, 2004.

The Committee on Resources held an oversight hearing on the Review Commission's report on July 21, 2004 during the 108th Congress. At that hearing, it became clear that legislation would be necessary to provide any further authorization of relief or recognition for the suffering of the people of Guam because the GMCA provided only a specific one year time limit for adjudication and settlement of past claims.

The Review Commission determined that there was a lack of parity in some aspects of the process of implementing the GMCA and in the amounts made available for payment to the residents of Guam. Among other notable findings, the Review Commission found that:

- Congress was misinformed when it excluded Guam from coverage under Title II of the War Claims Act of 1948, further amended in 1962.
- Congress should have adopted recommendations made in the 1947 Hopkins Report.
- Due to problems in disseminating information in post-war Guam, its residents did not have ample opportunity for filing claims under the GMCA, and were erroneously excluded from additional opportunities afforded other Americans in subsequent legislation.

In addition to further awards, the Review Commission recommended that Congress acknowledge both the suffering of the people of Guam during the enemy occupation of Guam in World War II and their demonstrated loyalty to the United States.

COMMITTEE ACTION

H.R. 1595 was introduced on March 20, 2007, by Congresswoman Madeleine Z. Bordallo (D-GU). The bill was referred to the Committee on Natural Resources. On May 2, 2007, the Full Committee met to consider the bill. Congresswoman Bordallo (D-GU) offered an amendment, technical in nature, consolidating the authorization of appropriations sections for both the claims and grants programs, and striking language that would have granted the Secretary of the Interior discretion to expend unobligated funds for the grants program. The amendment was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; table of contents

Section 1 provides the title of the bill and the section headings of the legislation.

Section 2. Recognition of the suffering and loyalty of the residents of Guam

Section 2 makes two statements recognizing the sufferings endured by the people of Guam during enemy occupation and the steadfast loyalty of the people of the Guam to the United States of America.

Section 3. Payments for Guam World War II claims

Subsection (a) delineates the amounts that claimants may be awarded at levels of \$25,000, \$15,000, \$12,000, \$10,000, and \$7,000. Death claims are to be paid at \$25,000. Personal injury claims are to be paid at \$15,000, \$12,000 or \$10,000 depending on the severity of the injury suffered. All claims for personal injury in the case of a deceased injured resident are to be paid at \$7,000.

“Internment” is defined and included as a category for personal injury claims based on both the War Claims Act of 1948 and the Wake Island Amendment of 1962, which authorized compensation for internment of civilians by Imperial Japanese military forces during World War II.

Subsection (b) describes the distribution of the amounts that may be paid for a claim among eligible claimants. Delineation of the distribution of payments among claimants is based on precedent, including the War Claims Act of 1948, Wake Island Amendment of 1962, War Claims Act of 1954, and the Micronesian Claims Act of 1971. Under these Acts, eligible claimants have been limited to the spouse, children and parents.

Subsection (c) defines the eligibility of claimants.

Section 4. Adjudication

Subsection (a) authorizes the Foreign Claims Settlement Commission to adjudicate claims and determine payment eligibility. The rules and regulations of the Foreign Claims Settlement Commission relating to its adjudication of claims shall be published in the Federal Register.

The efforts of the Foreign Claims Settlement Commission will be crucial to properly notifying potential claimants. To this end, the Committee recommends the hiring of interpreters on Guam to expeditiously and accurately translate the experience of those who speak Chamorro or who have limited proficiency in English. The Committee further recommends that the Foreign Claims Settlement Commission perform many of its functions directly in Guam, including staffing and offices, to the extent such functions are integral to the efficient and proper adjudication of claims and the execution of authority granted to it by this Act.

The Committee recognizes through its work with the Department of the Interior that due to its longstanding relationship with Guam’s leaders and its understanding of Guam’s history, the Department of the Interior may be called upon to provide assistance, including its expertise and technical assistance, to the Foreign Claims Settlement Commission. The Committee expects the Department of the Interior to provide such assistance as may be requested by the Foreign Claims Settlement Commission.

The Committee is aware of the fact that since the end of World War II, many survivors of Guam’s occupation have relocated. The Committee encourages the Foreign Claims Settlement Commission, with the support of the Department of the Interior, to undertake activities to inform the greatest possible number of potential claimants of the opportunity to file a claim. These activities should include outreach to organizations whose primary membership consists of former residents of Guam. The Committee notes that such organizations exist in the States of California, Washington, Texas, Nevada, Hawaii, Arizona, and the greater Washington, DC area.

Subsection (b) describes the manner and form under which claims are to be filed with and received by the Foreign Claims Settlement Commission. All claims shall be filed with the Foreign Claims Settlement Commission within one year of the notice published in the Federal Register. Decisions of the Foreign Claims Settlement Commission on each claim shall be determined by majority vote, shall be in writing, and shall state the reasons for the approval or denial of the claim. Other requirements are delineated with respect to deductions in payments that are to be made in relation to any amounts previously paid under the GMCA, the appeals process, the certification of payment process, and penalties for submission of a false claim.

Section 5. Grants program to memorialize the occupation of Guam during World War II

Section 5 authorizes a grants program for research, educational and media activities to memorialize the events surrounding the occupation of Guam during World War II. The Secretary of the Interior is provided the authority to award such grants.

Section 6. Authorization of appropriations

Subsection (a) authorizes \$126,000,000 to carry out sections 3 and 4.

Subsection (b) authorizes \$5,000,000 to carry out section 5.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article IV, section 3, of the Constitution of the United States grants the power of Congress over territory and other national property to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) 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 this bill. However, clause 3(d)(3)(B) 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 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to implement the recommendations of the Guam War Claims Review Commission, as ordered reported.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII 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 this bill from the Director of the Congressional Budget Office:

H.R. 1595—Guam World War II Loyalty Recognition Act

Summary: H.R. 1595 would authorize the appropriation of \$126 million for the federal government to compensate Guam residents for their mistreatment during the island's occupation by Japanese military forces during World War II. The legislation also would authorize the appropriation of \$5 million for a grant program to memorialize the occupation of Guam during World War II.

CBO estimates that implementing H.R. 1595 would cost about \$130 million over the 2008–2012 period, assuming appropriation of the authorized amounts. Enacting the legislation could increase revenues from civil and criminal penalties and direct spending of any collections, but CBO estimates that any amounts collected or spent would be negligible.

H.R. 1595 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

H.R. 1595 contains a private-sector mandate, as defined in UMRA, on individuals seeking to represent certain claimants who are eligible to receive money from the Foreign Claims Settlement Commission (FCSC). The bill would limit the amount of compensation individuals can receive to represent claimants who file for claims with the FCSC under this bill. CBO estimates, however, that the cost would be minimal, if any, and would fall well below the annual threshold established by UMRA (\$131 million in 2007, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1595 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Guam War-Claim Compensation Payments					
Estimated Authorization Level	100	26	0	0	0
Estimated Outlays	80	40	6	0	0
Grant Program					
Estimated Authorization Level	5	0	0	0	0
Estimated Outlays	1	1	1	1	1
Total Changes					
Estimated Authorization Level	105	26	0	0	0
Estimated Outlays	81	41	7	1	1

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted by the end of fiscal year 2007, that the authorized amounts will be provided each year, and that spending will follow historical patterns for similar programs.

Spending subject to appropriation

CBO estimates that implementing H.R. 1595 would cost about \$130 million over the 2008–2012 period, assuming appropriation of the authorized amounts.

Guam War-Claim Compensation Payments. H.R. 1595 would authorize the appropriation of \$126 million for the Department of the Treasury to make compensation payments to the residents of Guam for deaths and injuries suffered during the Japanese occupation of the island in World War II. The Foreign Claims Settlement Commission, an agency within the Department of Justice, would adjudicate such claims including promulgating rules and regulations as well as publicizing the program.

Grant Program. Section 5 would authorize the appropriation of \$5 million for the Department of the Interior to establish a grant program to support activities in memory of Guam's occupation during World War II.

Direct spending and revenues

H.R. 1595 would establish civil and criminal penalties for false claims related to deaths and injuries suffered during the Japanese occupation of Guam during World War II. Thus, the federal government might collect additional fines if the bill is enacted. Collections of civil fines are recorded as revenues and deposited in the Treasury; collections of criminal fines are deposited in the Crime Victims Fund and later spent. CBO expects that any additional revenues and direct spending from enacting those provisions would be negligible.

Estimated impact on State, local, and tribal governments: H.R. 1595 contains no intergovernmental mandates as defined in UMRA and would impose no costs on State, local, or tribal governments.

Estimated impact on the private sector: H.R. 1595 contains a private-sector mandate as defined in UMRA. The bill would limit the fees payable to attorneys or others seeking to represent individuals who file a claim to receive money from the FCSC under this bill. Specifically, section 4(b)6 would limit fees for representational services to not more than 1 percent of the amount that the claimant is paid. The limitation on representational fees is a private-sector mandate as defined in UMRA. Because the claimants in this program would be a new source of business generated under the bill, representatives would not lose fees that they could have collected in the absence of the bill. CBO therefore estimates that the cost to comply with the mandate would be minimal, if any, and would fall well below the annual threshold established by UMRA (\$131 million in 2007, adjusted annually for inflation).

Estimate prepared by: Federal costs: Matthew Pickford; Impact on State, local, and tribal governments: Marjorie Miller; Impact on the private sector: Jacob Kuipers.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 1595 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or (f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local, or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.