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WARTIME TREATMENT STUDY ACT OF 2007

MAY 4, 2007.—Ordered to be printed

Mr. LEAHY, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany S. 621]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to which was referred the bill (S. 621), to establish commissions to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II, having considered the same, reports favorably thereon and recommends that the bill do pass.

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I. PURPOSE OF THE WARTIME TREATMENT STUDY ACT OF 2007

The Wartime Treatment Study Act of 2007 would create two fact-finding commissions to supplement the work done in the 1980s by the Commission on Wartime Relocation and Internment of Civilians, which studied the treatment of Japanese Americans during World War II. The Act would create one commission to review the U.S. Government's treatment of German Americans, Italian Americans, and European Latin Americans during World War II, and another commission to review the U.S. Government's treatment of Jewish refugees fleeing Nazi persecution during World War II.

The victory of America and its allies in the Second World War was a triumph for freedom, justice, and human rights. But, at the same time that many brave Americans fought for freedom in Europe and the Pacific, the U.S. Government was curtailing the freedom of a number of people at home.

Many Americans are aware that during World War II, under the authority of Executive Order 9066 and the Alien Enemies Act, the U.S. Government forced more than 100,000 ethnic Japanese from their homes and ultimately into relocation and internment camps. Through the work of the Commission on Wartime Relocation and Internment of Civilians, created by Congress in 1980, this shameful event finally received the official acknowledgement and condemnation it deserved. Under the Civil Liberties Act of 1988, people of Japanese ancestry who were subjected to relocation or internment later received an apology and reparations on behalf of the people of the United States.

The Wartime Treatment Study Act will ensure that the U.S. Government also acknowledges the mistreatment experienced during World War II by many German Americans, Italian Americans, and European Latin Americans, as well as Jewish refugees fleeing Nazi persecution. The Wartime Treatment Study Act would create two independent, fact-finding commissions to review this unfortunate history.

One commission would review the treatment by the U.S. Government of German Americans, Italian Americans, and other European Americans, as well as European Latin Americans, during World War II. Most Americans are unaware that, as was the case with many ethnic Japanese, approximately 11,000 ethnic Germans, 3,200 ethnic Italians, and scores of Bulgarians, Hungarians, Romanians or other European Americans and European Latin Americans were taken from their homes and placed in internment camps during World War II. Following Pearl Harbor, the U.S. Government pursuant to the Alien Enemies Act deemed approximately 600,000 Italian-born and 300,000 German-born United States resident aliens as "enemy aliens," restricting their travel and personal property rights and requiring them to carry certificates of identification. Extensive prohibited zones were established where "enemy aliens" were forbidden or their movements were restricted. Thousands of European Americans, including American-born children, ultimately ended up behind barbed wire and under armed guard in detention facilities and internment camps, such as the camps operated by the Department of Justice at Crystal City, Texas; Seagoville, Texas; Kenedy, Texas; Missoula, Montana; and Bismarck, North Dakota. The last European American internees, held at Ellis Island, were not released until 1948.

In addition, pursuant to a policy coordinated with 18 Latin American countries, more than 4,000 German Latin Americans, including German and Austrian Jews, and more than 200 Italian Latin Americans were arrested, transferred to the U.S. and interned. Thousands, including in some instances American-born children, were later deported to hostile, war-torn European Axis nations in exchange for Americans and Latin Americans held there.

These policies were devastating to the German and Italian communities, individuals and families, and the effects are still being experienced. The Wartime Treatment Study Act of 2007 will enable

Americans to learn about this history and explore why the U.S. Government violated these individuals' basic rights based on their nationality or ethnicity.

A second commission created by this bill would review the treatment by the U.S. Government of Jewish refugees, like those aboard the German vessel the *St. Louis*, who were fleeing Nazi persecution and genocide. Prior to and during World War II, the United States restricted the entry of Jewish refugees who were fleeing persecution or genocide and sought safety in the United States. During the 1930s and 1940s, U.S. Government policies affected the number of Jewish refugees, particularly those from Germany and Austria, who could gain admittance to the United States. The commission would review these facts, including how U.S. immigration policies failed to provide adequate safe harbor to Jewish refugees fleeing the persecution of Nazi Germany.

The injustices to European Americans, European Latin Americans, and Jewish refugees occurred more than 50 years ago. Enactment of the Wartime Treatment Study Act of 2007 is urgently needed. If Congress further delays enactment, the people who were affected by these policies will no longer be here to tell their stories. As Senator Feingold said in his February 15, 2007, floor statement upon introduction of S. 621, "If we wait, the people who were affected will no longer be here to know that Congress has at last recognized their sacrifice and resolved to learn from the mistakes of the past." There has been a measure of justice for Japanese Americans who were denied their liberty and property during World War II. Our country benefited greatly from analyzing the Japanese American experience. So, too, will it benefit from understanding the European American and European Latin American experience. The Wartime Treatment Study Act would complete the accounting of this period in our nation's history and provide a long overdue measure of justice to European Americans and European Latin Americans who also lost their freedoms.

II. HISTORY OF THE BILL AND COMMITTEE CONSIDERATION

The Wartime Treatment Study Act of 2007, S. 621, is a bipartisan measure introduced on February 15, 2007, by Senator Feingold, Senator Grassley, Senator Kennedy, Senator Lieberman and Senator Inouye. Senator Cardin and Senator Wyden also joined the bill as cosponsors. Representative Robert Wexler introduced an identical measure, H.R. 1185, on February 16, 2007, in the House of Representatives.

The bill was listed on the Judiciary Committee's agenda for the first time on March 22, 2007. On April 12, 2007, the Committee ordered S. 621 to be reported favorably, without amendment, by voice vote.

The Wartime Treatment Study Act of 2007 builds on measures that were reported favorably from the Judiciary Committee in the 107th, 108th and 109th Congresses. In the 107th Congress, Senator Feingold, Senator Grassley and Senator Kennedy introduced S. 1356, the Wartime Treatment of European Americans and Refugees Study Act, on August 3, 2001. On March 14, 2002, the Judiciary Committee reported by voice vote an amended version of the bill. Significant changes included establishing two 7-member commissions rather than one 11-member commission, and changing the

name to the Wartime Treatment Study Act. No further action was taken in that Congress.

In the 108th Congress, Senator Feingold, Senator Grassley, Senator Kennedy and Senator Lieberman reintroduced the Wartime Treatment Study Act as S. 1691 on October 1, 2003. It was reported favorably by the Judiciary Committee on October 16, 2003. In January 2004, on the Senate floor Senator Feingold sought unanimous consent that the measure be taken up and passed by the Senate, but an objection was raised.

In the 109th Congress, Senator Feingold, Senator Grassley, Senator Kennedy, Senator Lieberman, Senator Corzine, and Senator Wyden reintroduced the bill as S. 1354 on June 30, 2005. It was reported favorably without amendment by the Judiciary Committee on November 17, 2005. No further action was taken.

III. SECTION-BY-SECTION SUMMARY OF THE BILL

Section 1 contains the short title of the Wartime Treatment Study Act of 2007.

Section 2 contains the following findings:

(1) During World War II, the United States Government deemed as “enemy aliens” more than 600,000 Italian-born and 300,000 German-born United States resident aliens and their families and required them to carry Certificates of Identification and limited their travel and personal property rights. At that time, these groups were the two largest foreign-born groups in the United States.

(2) During World War II, the United States Government arrested, interned, or otherwise detained thousands of European Americans, some remaining in custody for years after cessation of World War II hostilities, and repatriated, exchanged, or deported European Americans, including American-born children, to European Axis nations, many to be exchanged for Americans held in those nations.

(3) Pursuant to a policy coordinated by the United States with Latin American nations, many European Latin Americans, including German and Austrian Jews, were arrested, brought to the United States, and interned. Many were later expatriated, repatriated, or deported to European Axis nations during World War II, many to be exchanged for Americans and Latin Americans held in those nations.

(4) Millions of European Americans served in the armed forces and thousands sacrificed their lives in defense of the United States.

(5) The wartime policies of the United States Government were devastating to the Italian American and German American communities, individuals, and their families. The detrimental effects are still being experienced.

(6) Prior to and during World War II, the United States restricted the entry of Jewish refugees who were fleeing persecution or genocide and sought safety in the United States. During the 1930s and 1940s, the quota system, immigration regulations, visa requirements, and the time required to process visa applications affected the number of Jewish refugees, particularly those from Germany and Austria, who could gain admittance to the United States.

(7) The United States Government should conduct an independent review to fully assess and acknowledge these actions. Congress has previously reviewed the United States Government’s war-

time treatment of Japanese Americans through the Commission on Wartime Relocation and Internment of Civilians. An independent review of the treatment of German Americans and Italian Americans and of Jewish refugees fleeing persecution and genocide has not yet been undertaken.

(8) Time is of the essence for the establishment of commissions, because of the increasing danger of destruction and loss of relevant documents, the advanced age of potential witnesses and, most importantly, the advanced age of those affected by the United States Government's policies. Many who suffered have already passed away and will never know of this effort.

Section 3 defines the key terms of the legislation. It specifies that "during World War II" covers the time period between September 1, 1939, and December 31, 1948. It defines "European Americans" to include U.S. citizens and resident aliens of European ancestry; "Italian Americans" to include U.S. citizens and resident aliens of Italian ancestry; "German Americans" to include U.S. citizens and resident aliens of German ancestry; and "European Latin Americans" to include persons of European ancestry residing in Central America, South America or the Caribbean during World War II.

Title I—Commission on Wartime Treatment of European Americans

Section 101 establishes the Commission on Wartime Treatment of European Americans. It provides that the 7-member Commission be composed of three members appointed by the President, two by the Speaker of the House in consultation with the minority leader, and two by the majority leader of the Senate in consultation with the minority leader. The provision contemplates that the appointing authorities will work together to ensure that the Commission includes two members representing the interests of Italian Americans and two members representing the interests of German Americans.

Section 102 sets out the duties of the Commission, which include a comprehensive review of the U.S. Government's treatment of European Americans and European Latin Americans during World War II, and the compilation of a list of the detention and internment facilities where they were held, and those who died and were born in those facilities. This review also will include an assessment of the underlying rationale for the U.S. Government's actions and recommendations for how civil liberties can be protected during wartime in the future. Section 102 also requires the Commission to submit a written report of its findings and recommendations to Congress no later than 18 months after the date of the Commission's first meeting.

Section 103 sets out the powers of the Commission. The Commission may hold hearings at times and locations of its choosing, and request the testimony of witnesses and the production of books, records, correspondence, memorandum, papers, and documents. If the Commission has difficulty securing such testimony or production, it may ask the Attorney General to invoke the aid of an appropriate federal court to require such testimony or production. In addition, the legislation requires that all executive branch entities comply fully with any requests for information from the Commission.

Section 104 contains administrative provisions regarding the hiring of staff, consultants and details; procuring supplies, services and property; and entering into contracts.

Section 105 authorizes \$600,000 in appropriations for the Commission to carry out its duties.

Section 106 sunsets the Commission 60 days after it submits the report to Congress required by Section 102.

Title II—Commission on Wartime Treatment of Jewish Refugees

Section 201 establishes the Commission on Wartime Treatment of Jewish Refugees. It provides that the 7-member Commission be composed of three members appointed by the President, two by the Speaker of the House in consultation with the minority leader, and two by the majority leader of the Senate in consultation with the minority leader. The provision contemplates that the appointing authorities will work together to ensure that the Commission includes two members representing the interests of Jewish refugees.

Section 202 sets out the duties of the Commission, which include a comprehensive review of the U.S. Government's treatment of Jewish and other refugees fleeing Nazi persecution or genocide during World War II, and an assessment of the underlying rationale for the U.S. Government's actions and recommendations for how people fleeing persecution or genocide in the future can better obtain refuge in the United States. Section 102 also requires the Commission to submit a written report of its findings and recommendations to Congress no later than 18 months after the date of the Commission's first meeting.

Section 203 sets out the powers of the Commission. The Commission may hold hearings at times and locations of its choosing, and request the testimony of witnesses and the production of books, records, correspondence, memorandum, papers, and documents. If the Commission has difficulty securing such testimony or production, it may ask the Attorney General to invoke the aid of an appropriate federal court to require such testimony or production. In addition, the legislation requires that all executive branch entities comply fully with any requests for information from the Commission.

Section 204 contains administrative provisions regarding the hiring of staff, consultants and details; procuring supplies, services and property; and entering into contracts.

Section 205 authorizes \$600,000 in appropriations for the Commission to carry out its duties.

Section 206 sunsets the Commission 60 days after it submits the report to Congress required by Section 202.

IV. COST ESTIMATE

The Committee sets forth, with respect to the bill, S. 621, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

APRIL 19, 2007.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 621, the Wartime Treatment Study Act.

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

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 621—Wartime Treatment Study Act

S. 621 would establish two commissions, the Commission on Wartime Treatment of European Americans and the Commission on Wartime Treatment of Jewish Refugees. The first commission would review the conduct of the United States government during World War II towards European Americans and European Latin Americans. The second commission would focus on the government's treatment of Jewish refugees during World War II.

Each commission, consisting of seven members, would have 18 months to report on its findings and recommendations. Members would serve without pay, but would be reimbursed for travel expenses. In addition, the commissions could hire staff or use personnel from other agencies. Each commission would terminate 60 days after submitting its final report. To fund the costs of the commissions, the bill would authorize the appropriation of \$1.2 million (\$600,000 per commission).

Assuming the appropriation of the authorized amounts, CBO estimates that implementing S. 621 would cost \$1.2 million over the 2008–2009 period. Enacting the bill would not affect direct spending or revenues. The legislation does not authorize any payment of restitution; such authority would require a separate act of Congress.

S. 621 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

V. REGULATORY IMPACT EVALUATION

In compliance with rule XXVI of the Standing Rules of the Senate, the Committee finds that no significant regulatory impact will result from the enactment of S. 621.

VI. CONCLUSION

Passage and enactment of the Wartime Treatment Study Act of 2007, S. 621, is long overdue. This bipartisan legislation will allow for a fuller accounting of this tragic chapter in our Nation's history.

VII. CHANGES IN EXISTING LAW

Pursuant to paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee finds no changes in existing law made by S. 621, as ordered reported.

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