

the Interior Gale Norton and established by an Act of the 107th Congress (Public Law 107-333). The Review Commission, in a unanimous report to Congress in June 2004, found that there were significant disparities in the treatment of war claims for the people of Guam as compared with war claims for other Americans. The Review Commission also found that the occupation of Guam was especially brutal due to the unfailing loyalty of the people of Guam to the United States of America. The people of Guam were subjected to forced labor, forced marches, internment, beatings, rapes and executions, including public beheadings. The Review Commission recommended that Congress remedy this injustice through the enactment of legislation to authorize payment of claims in amounts specified. Specifically, the bill would authorize discretionary spending to pay claims consistent with the recommendations of the commission.

It is important to note that the Review Commission found that the United States Government seized Japanese assets during the war and that the record shows that settlement of claims was meant to be paid from these forfeitures. Furthermore, the United States signed a Treaty of Peace with Japan on September 8, 1951, which precludes Americans from making claims against Japan for war reparations. The treaty closed any legal mechanism for seeking redress from the Government of Japan, and the United States Government has settled claims for U.S. citizens and other nationals through various claims programs authorized by Congress.

The text that I introduce in this Congress addresses concerns that have been raised about the legislation. First, the text reflects a compromise that was reached with the Senate when they considered the legislation as a provision of the National Defense Authorization Act for Fiscal Year 2011. That compromise removes payment of claims to heirs of survivors who suffered personal injury during the enemy occupation. The bill continues to provide payment of claims to survivors of the occupation as well as to heirs of citizens of Guam who died during the occupation. The compromise continues to uphold the intent of recognizing the people of Guam for their loyalty to the United States during World War II.

Further, the bill that I introduce today contains an offset for the estimated cost of the bill. I understood the concerns express by some of my colleagues in a July 14, 2011 hearing on this legislation. My colleagues expressed concern that there was no offset to pay for the cost of the bill. Guam war claims has a very simple offset that will pay for the cost of the legislation over time. The bill would be paid by section 30 funding remitted to Guam through the U.S. Department of Interior at any level above section 30 funds that were remitted to Guam in fiscal year 2012. With the impending relocation of Marines from Okinawa to Guam as well as additional Navy and Air Force personnel relocating to Guam it is expected that Guam will receive additional section 30 funds. Claims would then be paid out over time based off the additional amounts that were made available in any given year. Not only does this offset address payment of claims but it only impacts my jurisdiction and is a credible source of funding that will ensure that claims will be paid. Moreover, the Congressional Budget Office (CBO) indicates in Senate report 113-146 that accompanied S.

1237, the Omnibus Territories Act of 2012, that the offset ensures the bill would not cost the federal government additional funds. Specifically it states, “any such future payments due to Guam that exceed the amount paid in 2012 would instead be paid to a new U.S. Treasury fund that would be available to make compensation payments. CBO estimates that the collection and spending of those funds would have no significant net impact on direct spending over the 2015–2024 period.” Congressional passage of this bill has a direct impact on the future success of the military buildup. The need for Guam War Claims was brought about because of mishandling of war claims immediately following World War II by the Department of the Navy. The long-standing inequity with how Guam was treated for war reparations lingers today. If we do not bring this matter to a close I believe that support for the military build-up will erode and impact the readiness of our forces and the bilateral relationship with Japan.

Mr Speaker, resolving this issue is a matter of justice. This carefully crafted compromise legislation addresses the concerns of the Senate and fiscal conservatives in the House of Representatives. This bill represents a unique opportunity to right a wrong because many of the survivors of the occupation are nearing the end of their lives. It is important that the Congress act on the recommendations of the Guam War Claims Review Commission to finally resolve this longstanding injustice for the people of Guam.

#### PROTECTING EMPLOYEES AND RETIREES IN MUNICIPAL BANKRUPTCIES ACT OF 2015

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 6, 2015

Mr. CONYERS. Mr. Speaker, I submit the following.

#### SUMMARY

When a municipality files for bankruptcy, its employees and retirees who have devoted their lives to public service—such as police officers, firefighters, sanitation workers and office personnel—risk having their hard-earned wages, pensions and health benefits cut or even eliminated.

This is why I am introducing the “Protecting Employees and Retirees in Municipal Bankruptcies Act of 2015.” This legislation strengthens protections for employees and retirees under chapter 9 municipality bankruptcy cases by: (1) clarifying the criteria that a municipality must meet before it can obtain chapter 9 bankruptcy relief; (2) ensuring that the interests of employees and retirees are represented in the chapter 9 case; and (3) imposing heightened standards that a municipality must meet before it may modify any collective bargaining agreement or retiree benefit.

While many municipalities often work to limit the impact of budget cuts on their employees and retirees, as demonstrated in the chapter 9 plan of adjustment approved by Detroit’s public employees and retirees, other municipalities could try to use current bankruptcy law to set aside collective bargaining agreements and retiree protections.

My legislation addresses this risk by requiring the municipality to engage in meaningful good faith negotiations with its em-

ployees and retirees before the municipality can apply for chapter 9 bankruptcy relief. This measure would also expedite the appellate review process of whether a municipality has complied with this and other requirements. And, the bill ensures employees and retirees have a say in any plan that would modify their benefits.

#### SECTION-BY-SECTION EXPLANATION

*Sec. 1. Short Title.* Section 1 of the bill sets forth the short title of the bill as the “Protecting Employees and Retirees in Municipal Bankruptcies Act of 2015.”

*Sec. 2. Determination of Municipality Eligibility To Be a Debtor Under Chapter 9 of Title 11 of the United States Code.* A municipality can petition to be a debtor under chapter 9, a specialized form of bankruptcy relief, only if a bankruptcy court finds by a preponderance of the evidence that the municipality satisfies certain criteria specified in Bankruptcy Code section 109. In the absence of obtaining the consent of a majority of its creditors, section 109 requires the municipality, in pertinent part, to have negotiated in good faith with its creditors or prove that it is unable to negotiate with its creditors because such negotiation is impracticable.

Section 2(a) of the bill amends Bankruptcy Code section 109 in three respects. First, it provides clear guidance to the bankruptcy court that the term “good faith” is intended to have the same meaning as it has under the National Labor Relations Act at least with respect to creditors who are employees or retirees of the debtor. Second, section 2(a) revises the standard for futility of negotiation from “impracticable” to “impossible.” This change ensures that before a municipality may avail itself of chapter 9 bankruptcy relief it must prove that there was no possible way it could have engaged in negotiation in lieu of seeking such relief. Third, the amendment clarifies that the standard of proof that the municipality must meet is “clear and convincing” rather than a preponderance of the evidence. These revisions to section 109 will provide greater guidance to the bankruptcy court in assessing whether a municipality has satisfied the Bankruptcy Code’s eligibility requirements for being granted relief under chapter 9.

Bankruptcy Code section 921(e), in relevant part, prohibits a bankruptcy court from ordering a stay of any proceeding arising in a chapter 9 case on account of an appeal from an order granting a municipality’s petition to be a debtor under chapter 9. Section 2(b) strikes this prohibition thereby allowing a court to issue a stay of any proceeding during the pendency of such an appeal. This ensures that the status quo can be maintained until there is a final appellate determination of whether a municipality is legally eligible to be a chapter 9 debtor.

Typically, an appeal of a bankruptcy court decision is heard by a district or bankruptcy appellate panel court. Under limited circumstances, however, a direct appeal from a bankruptcy court decision may be heard by a court of appeals. Until a final determination is made as to whether a municipality is eligible to be a debtor under chapter 9 of the Bankruptcy Code, the rights and responsibilities of numerous stakeholders are unclear. To expedite the appellate process and promote greater certainty to all stakeholders in the case, section 2(c) of the bill allows an appeal of a bankruptcy court order granting a municipality’s petition to be a chapter 9 debtor to be filed directly with the court of appeals. In addition, section 2(c) requires the court of appeals to hear such appeal *de novo* on the merits as well as to determine it on an expedited basis. Finally, section 2(c) specifies that the doctrine of equitable mootness does not apply to such an appeal.

Sec. 3. *Protecting Employees and Retirees.* The chapter 9 debtor must file a plan for the adjustment of the municipality's debts that then must be confirmed by the bankruptcy court if it satisfies certain criteria specified in Bankruptcy Code section 943. Section 3 of the bill makes several amendments to current law intended to ensure that interests of municipal employees and retirees are better protected. With respect to plan confirmation requirements, section 3 amends Bankruptcy Code section 943 to require consent from such employees and retirees to any plan that impairs—in a manner prohibited by non-bankruptcy law—a collective bargaining agreement, a retiree benefit, including an accrued pension, retiree health, or other retirement benefit protected by state or municipal law or as defined in Bankruptcy Code section 1114(a).

Such consent would be conveyed to the court by the authorized representative of such individuals. Subject to certain exceptions, section 3 specifies that the authorized representative of individuals receiving any retirement benefits pursuant to a collective bargaining agreement is the labor organization that signed such agreement unless such organization no longer represents active employees. Where the organization no longer represents active employees of the municipality, the labor organization that currently represents active employees in that bargaining unit is the authorized representative of such individuals.

Section 3 provides that the exceptions apply if: (1) the labor organization chooses not to serve as the authorized representative; or (2) the court determines, after a motion by a party in interest and after notice and a hearing, that different representation is appropriate. Under either circumstance, the court, upon motion by any party in interest and after notice and a hearing, must order the United States Trustee to appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate for that committee be comprised of such individuals to serve as the authorized representative.

With respect to retired employees not covered by a collective bargaining agreement, the court, on motion by a party in interest after notice and a hearing, must order the United States Trustee to appoint a committee of retired employees if the debtor seeks to modify or not pay retiree benefits, or if the court otherwise determines that it is appropriate to serve as the authorized representative of such employees. Section 3 provides that the party requesting the appointment of a committee has the burden of proof.

Where the court grants a motion for the appointment of a retiree committee, section 3 requires the United States Trustee to choose individuals to serve on the committee on a proportional basis per capita based on organization membership from among members of the organizations that represent the individuals with respect to whom such order is entered. This requirement ensures that the committee, in a case where there are multiple labor organizations, fairly represents the interests of the members of those various organizations on a proportional basis.

Finally, section 3 of the bill imposes a significant threshold that must be met before retiree benefits can be reduced or eliminated. Current law has no such requirement. In a case where the municipality proposes in its plan to impair any right to a retiree benefit, section 3 permits the committee to support such impairment only if at least two-thirds of its members vote in favor of doing so.

## OUR UNCONSCIONABLE NATIONAL DEBT

### HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. COFFMAN. Mr. Speaker, on January 20, 2009, the day President Obama took office, the national debt was \$10,626,877,048,913.08.

Today, it is \$18,080,402,933,324.23. We've added \$7,453,735,606,331.18 to our debt in 5 years. This is over \$7.4 trillion in debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

## HONORING MICK FOUNTS, ED.D., SAN JOAQUIN COUNTY SUPERINTENDENT OF EDUCATION

### HON. JEFF DENHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. DENHAM. Mr. Speaker, I rise today to acknowledge and honor Mick Founts, Ed.D., San Joaquin County Superintendent of Education, who is retiring after many years of outstanding service to our community.

In 1976, Mick Founts graduated from Humboldt State University with a B.A. in English. Four years later, he obtained his Master's Degree in Education and two credentials: Administrative and Pupil Personnel Services. Mick was awarded his Doctor of Education degree from University of the Pacific in 1995. During his 38 year career in education he has been an English classroom teacher, high school and college football coach, assistant principal for a continuation school, assistant principal for a comprehensive high school, a Coordinator of Child Welfare and Attendance, a Director of Alternative Programs, an Assistant Superintendent of Alternative Education Programs and Charters, an Associate Superintendent of County Operated Schools and Programs, Deputy Superintendent of San Joaquin County Office of Education Student Programs and Services, and in 2010 was elected as San Joaquin County Superintendent of Schools. As Superintendent of Schools, Founts is charged with the ultimate responsibility for all activities of San Joaquin County Office of Education.

In 1991 Mick began the San Joaquin County Office of Education Community School Program. The "one.Program" includes Court School as well as Community School and is recognized throughout the State as an innovative alternative education program. It now serves more than 1,500 at-risk students working to overcome obstacles leading to a high school diploma. Mick was the Juvenile Court, Community, and Alternative School Administrators of California President elect (1996–97), President (1997–1998), and Past President (1998–1999).

Superintendent Founts has either authorized or developed some of the most unique public charter schools in California. These include agricultural academies, technology sites, fine and performing arts high schools, collegiate sports academies, career and technical education academies, and many more . . . all

within San Joaquin County. Dr. Founts currently served as a Commissioner on the California State Board of Education Advisory Commission on Charter Schools. His commitment to Career and Technical Education, Agriculture, Migrant Education, Technology, and Outdoor Education is constant, as is his commitment to Teachers College of San Joaquin; the first college operated by a County Office of education. This commitment extends to the many events that SJCOE sponsors for students throughout the County: Academic Decathlon, Science Olympiad, Math Olympiad, Mock Trial, as well as the local and State Spelling Bee, to name just a few.

In 2013, he was one of twenty Superintendents to work with Governor Brown to support the reform effort aimed at bringing more money to children in our schools. In addition, he championed a variety of programs to fill the void in operations and support programs created from budget cuts in sports, technology, and art clinics, as well as helped fundraise to send more than 200 students to Outdoor Education by way of fundraising.

Also during his term as San Joaquin County Office of Education Superintendent, Mick served as an environmental steward for schools by designing a cutting edge Solar Parking Lot linked to the SJCOE Clean Transportation Technologies Academy and New Energy Academy funded by a partnership between PG&E, SJCOE, and California Department of Education. Its curriculum is devoted to renewable energy and green technology topics with the goal of giving students a foundation for college and jobs in the clean tech industry.

Superintendent Founts was instrumental in the formation of the County's career academy concept that will prepare kids for work and college. His vision created a state-of-the-art career and technical education facility along with regional occupational programs and centers such as Career Academy of Cosmetology. In addition, through SJ Building Futures Academy and SJ Regional Conservation Corps, he helped give young adults viable work skills as well as keeping them off the street by providing a second chance at a high school diploma.

Like his taste for variety in education, Mick also enjoys an array of hobbies. In addition to his career in education, he is a ranch owner and farmer for his family's South African Boer Goat business Biggy Farms and regularly competes in National livestock shows. Mick played and coached both high school and college football and continues to enjoy sports. He can often be found at a local football or basketball game. Mick was raised in a musical family and played in bands during his younger years. He continues to play the guitar for his own enjoyment and has an appreciation for many different musical styles. He also has a love for Victorian homes and he and his family have enjoyed restoring one on their own property.

Mick's impact on students covers many years and it is not unusual to hear grown men refer to him as "coach" to this day. Previous students often call his office or stop by to share that they would not be where they are today had it not been for his influence. When Mick retires at the end of his term, he leaves a legacy that spans many generations.

Mr. Speaker, please join me in honoring and commending the outstanding contributions made to education and the San Joaquin community by Superintendent Mick Founts and