

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2420

To amend the Organic Act of Guam to provide for restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment and death during the occupation of Guam during World War II, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 24 (legislative day, AUGUST 18), 1994

Mr. INOUE introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Organic Act of Guam to provide for restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment and death during the occupation of Guam during World War II, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Guam War Restitution  
5 Act”.

1 **SEC. 2. AMENDMENT TO THE ORGANIC ACT OF GUAM.**

2 The Organic Act of Guam (48 U.S.C. 1421 et seq.)  
3 is amended by adding at the end the following new section:

4 **“SEC. 36. RECOGNITION OF DEMONSTRATED LOYALTY OF**  
5 **THE PEOPLE OF GUAM TO THE UNITED**  
6 **STATES, AND THE SUFFERING AND DEPRIVA-**  
7 **TION ARISING THEREFROM, DURING WORLD**  
8 **WAR II.**

9 “(a) APPLICATION OF SECTION.—This section ap-  
10 plies to any Guamanian who would otherwise be eligible  
11 to file a claim under the first section of the Act of Novem-  
12 ber 15, 1945 (59 Stat. 582, chapter 483), but failed to  
13 meet the 1-year time limitation for filing of death or per-  
14 sonal injury claims specified in the first section of such  
15 Act, or who suffered other compensable injuries if such  
16 Guamanian, an heir to such Guamanian, or next of kin  
17 of such Guamanian, meets the criteria for eligibility and  
18 other criteria set forth in this section and otherwise meets  
19 the requirements for filing a claim under this section, in-  
20 cluding meeting an applicable deadline for filing the claim.

21 “(b) DEFINITIONS.—For the purposes of this section:

22 “(1) AWARD.—The term ‘award’ means the  
23 amount of compensation payable for a claim made  
24 by an eligible claimant pursuant to subsection  
25 (d)(1).

1           “(2) BENEFIT.—The term ‘benefit’ means the  
2 amount of compensation payable for a claim made  
3 by an eligible claimant pursuant to subsection  
4 (d)(2).

5           “(3) BOARD.—The term ‘Board’ means the  
6 Guam Restitution Trust Fund Board of Directors  
7 established under subsection (h).

8           “(4) CLAIMS FUND.—The term ‘Claims Fund’  
9 means the Guam Restitution Claims Fund estab-  
10 lished under subsection (f)(1).

11           “(5) COMPENSABLE INJURY.—The term ‘com-  
12 pensable injury’ means one of the following three  
13 categories of injury incurred during, or as a result  
14 of, World War II:

15                   “(A) Death.

16                   “(B) Personal injury.

17                   “(C) Forced labor, forced march, or in-  
18 ternment.

19           “(6) ELIGIBLE CLAIMANT.—The term ‘eligible  
20 claimant’ means an individual who meets the re-  
21 quirements of paragraph (1) or (2) of subsection  
22 (d).

23           “(7) GUAMANIAN.—The term ‘Guamanian’  
24 means any individual who—

1           “(A) resided in Guam during the period  
2 beginning December 8, 1941, and ending Sep-  
3 tember 2, 1945; and

4           “(B) was a United States citizen or United  
5 States national during the period specified in  
6 subparagraph (A).

7           “(8) SECRETARY.—The term ‘Secretary’ means  
8 the Secretary of the Interior.

9           “(9) TRUST FUND.—The term ‘Trust Fund’  
10 means the Guam Restitution Trust Fund established  
11 under subsection (g)(1).

12          “(c) GENERAL AUTHORITY OF SECRETARY AND  
13 BOARD; REQUIREMENTS.—

14           “(1) IN GENERAL.—The Secretary may receive,  
15 examine, and render final decisions concerning  
16 claims for awards submitted pursuant to subsection  
17 (d)(1) and claims for benefits submitted pursuant to  
18 subsection (d)(2) in accordance with this section.  
19 The Secretary may certify and disburse payments  
20 from funds made available to the Secretary from the  
21 Claims Fund, and the Board may certify and dis-  
22 burse payments from funds made available to the  
23 Board from the Trust Fund, in accordance with this  
24 section.

1           “(2) REQUIRED INFORMATION FOR INCLUSION  
2           IN CLAIMS FOR AWARDS AND BENEFITS.—A claim  
3           for an award or benefit under this section shall be  
4           made under an oath administered by an appropriate  
5           official (as determined by the Secretary). Such claim  
6           shall include the following information:

7                   “(A) The name and age of the claimant.

8                   “(B) The village in which the claimant re-  
9                   sided at the time the compensable injury oc-  
10                  curred.

11                  “(C) The approximate date on which com-  
12                  pensable injury was incurred.

13                  “(D) A brief description of the compen-  
14                  sable injury that is the subject of the claim.

15                  “(E) The circumstances that resulted in  
16                  the compensable injury.

17                  “(F) In the case of an award based on  
18                  death as the compensable injury, or the case of  
19                  a claim for a benefit, proof of the relationship  
20                  of the claimant to the deceased.

21           “(3) TIME LIMITATION FOR REVIEWING AND  
22           CERTIFYING CLAIMS.—Upon receipt of a claim sub-  
23           mitted pursuant to this subsection, the Secretary  
24           shall examine the claim to determine if the claim  
25           conforms with the requirements of paragraph (2),

1 and certify the claim if such claim conforms with  
2 such requirements, as expeditiously as practicable,  
3 but not later than 18 months after the date of en-  
4 actment of this section.

5 “(d) ELIGIBILITY.—

6 “(1) ELIGIBILITY FOR AWARDS.—To be eligible  
7 for an award under this section, the claimant shall  
8 meet the following criteria:

9 “(A) The claimant is a living Guamanian  
10 who personally received the compensable injury,  
11 except that in a claim for death, a claimant  
12 may be the heir or next of kin of the decedent  
13 Guamanian.

14 “(B) The claimant files a claim with the  
15 Secretary for a compensable injury that meets  
16 the requirements of subsection (c)(2).

17 “(C) The claimant, at the time of submis-  
18 sion of the claim—

19 “(i) furnishes proof of the compen-  
20 sable injury; or

21 “(ii) produces affidavits by two wit-  
22 nesses to the compensable injury.

23 “(D) The claimant files a claim under this  
24 section by not later than 1 year after the date  
25 of enactment of this section.

1           “(2) ELIGIBILITY FOR BENEFITS.—To be eligi-  
2 ble for a benefit under this section, the claimant  
3 shall meet the following criteria:

4           “(A) The claimant is a living Guamanian  
5 who is an heir or next of kin of the decedent  
6 Guamanian who personally received the com-  
7 pensable injury and who died after September  
8 2, 1945.

9           “(B) The claimant files a claim with the  
10 Secretary or the Board for a compensable in-  
11 jury that meets the requirements of subsection  
12 (c)(2).

13           “(C) The claimant, at the time of submis-  
14 sion of the claim—

15           “(i) furnishes proof of the compen-  
16 sable injury; or

17           “(ii) produces affidavits by two wit-  
18 nesses to the compensable injury.

19           “(D)(i) Except as provided in clause (ii),  
20 the claimant files a claim under this section not  
21 later than 1 year after the date of enactment of  
22 this section.

23           “(ii) Any individual who proves con-  
24 sanguinity with a claimant and who meets the  
25 criteria specified in subparagraphs (A) through

1 (C) may become eligible for a prorated share of  
2 benefits accruing to such claim by filing, in ac-  
3 cordance with such procedures as the Board  
4 may prescribe, a claim with the Board for such  
5 prorated share.

6 “(3) LIMITATION ON ELIGIBILITY FOR AWARDS  
7 AND BENEFITS.—A claimant for an award or a ben-  
8 efit under this section may only be eligible for an  
9 award arising out of one category of compensable in-  
10 juries specified in subparagraph (A), (B), or (C) of  
11 subsection (b)(5).

12 “(e) PAYMENTS.—

13 “(1) CERTIFICATION.—The Secretary shall cer-  
14 tify each award for which a payment is made under  
15 this section. The Board shall certify each benefit for  
16 which a payment is made under this section.

17 “(2) AWARDS.—Except as provided in para-  
18 graph (7), upon the certification of an award under  
19 paragraph (1), the Secretary shall pay an award  
20 from funds made available to the Secretary from the  
21 Claims Fund in the applicable amount specified in  
22 subparagraph (A), (B), or (C) of paragraph (3) to  
23 the eligible claimant who submitted the claim for the  
24 award pursuant to subsection (d)(1).



1           “(3) AWARD AMOUNTS.—The awards paid  
2 under this subsection shall be in the following  
3 amounts:

4                   “(A) \$20,000 for a death.

5                   “(B) \$7,000 for a personal injury.

6                   “(C) \$5,000 for forced labor, forced  
7 march, or internment.

8           “(4) BENEFITS.—Except as provided in sub-  
9 section (d)(2)(D) and paragraph (7), upon the cer-  
10 tification of a benefit under paragraph (1), the  
11 Board shall pay to the eligible claimant who submit-  
12 ted a claim to receive a benefit under subsection  
13 (d)(2) a payment from funds made available to the  
14 Board from the Trust Fund in an amount equal to  
15 the full amount of the benefit in the applicable  
16 amount specified in subparagraph (A) or (B) of  
17 paragraph (5).

18           “(5) BENEFIT AMOUNTS.—The benefits paid  
19 under this subsection shall be in the following  
20 amounts:

21                   “(A) \$7,000 for the category of personal  
22 injury.

23                   “(B) \$5,000 for the category of forced  
24 labor, forced march, or internment.

1           “(6) REFUSAL TO ACCEPT PAYMENT.—If a  
2 claimant refuses to accept a payment under this sec-  
3 tion, no payment may be made under this section to  
4 such claimant after the date on which the claimant  
5 refuses the payment, and the amount of the claim  
6 shall not be withdrawn from the Claim Fund or the  
7 Trust Fund.

8           “(7) PRORATED PAYMENTS RELATED TO  
9 CLAIMS FOR THE SAME DEATH.—Payment of the  
10 award or benefit relating to death shall be prorated  
11 among the heirs or next of kin who are claimants for  
12 the same death, as provided in the probate laws of  
13 the territory of Guam.

14           “(8) ORDER OF PAYMENTS.—The Secretary  
15 shall, to the extent practicable, make payments  
16 under this section to eligible claimants in descending  
17 order on the basis of the age of the claimants.

18           “(f) GUAM RESTITUTION CLAIMS FUND.—

19           “(1) ESTABLISHMENT.—There is established in  
20 the Treasury of the United States the Guam Res-  
21 titution Claims Fund. The Claims Fund shall consist  
22 of such amounts as are deposited in the Fund pur-  
23 suant to appropriations authorized under subsection  
24 (m). The Secretary of the Treasury, with the concur-  
25 rence of the Secretary of the Interior, shall admin-

1       ister the Claims Fund. Amounts in the Claims Fund  
2       shall only be available to the Secretary of the Inte-  
3       rior for disbursement pursuant to this section.

4           “(2) UNOBLIGATED FUNDS.—If the Secretary  
5       of the Interior determines that all eligible claimants  
6       have been paid under this section, the Secretary of  
7       the Treasury shall transfer any unobligated funds  
8       remaining in the Claims Fund to the Trust Fund on  
9       the date that is 60 days after the Secretary of the  
10      Interior submits to Congress the final report re-  
11     quired under subsection (j)(3).

12          “(3) ADMINISTRATIVE COSTS.—No administra-  
13      tive cost incurred by the Secretary in carrying out  
14      this section shall be paid from the Claims Fund or  
15      set off against, or otherwise deducted from, any pay-  
16      ment made under this section to any eligible claim-  
17      ant.

18          “(g) GUAM RESTITUTION TRUST FUND.—

19           “(1) ESTABLISHMENT.—There is established in  
20      the Treasury of the United States the Guam Res-  
21      titution Trust Fund. The Trust Fund shall consist  
22      of such amounts as are deposited in the Fund pur-  
23      suant to appropriations authorized under subsection  
24      (m) and any interest earned on investment of  
25      amounts in the Trust Fund under paragraph (2).

1 The Trust Fund shall be administered by the Sec-  
2 retary of the Treasury.

3 “(2) INVESTMENTS.—The Secretary of the  
4 Treasury shall invest amounts in the Trust Fund in  
5 accordance with section 9702 of title 31, United  
6 States Code.

7 “(3) USES.—Amounts in the Trust Fund shall  
8 be available only for disbursement by the Board in  
9 accordance with subsection (h).

10 “(h) GUAM RESTITUTION TRUST FUND BOARD OF  
11 DIRECTORS.—

12 “(1) ESTABLISHMENT.—There is established  
13 the Guam Restitution Trust Fund Board of Direc-  
14 tors. The Board shall be responsible for making dis-  
15 bursements from funds made available by the Sec-  
16 retary of the Treasury to the Board from the Trust  
17 Fund in the manner provided in this subsection.

18 “(2) USES.—The Board may make disburse-  
19 ments from funds made available to the Board from  
20 the Trust Fund only for the following purposes:

21 “(A) To sponsor research and public edu-  
22 cational activities in such manner as to ensure  
23 that—

1           “(i) the events surrounding the war-  
2           time experiences and losses of the Guama-  
3           nian people will be remembered; and

4           “(ii) the causes and circumstances of  
5           this and similar events may be illuminated  
6           and understood.

7           “(B) To disburse available funds as bene-  
8           fits to eligible claimants through a revolving  
9           fund for such purposes as postsecondary schol-  
10          arships, first-time home ownership loans, and  
11          any other purpose that the Board may deter-  
12          mine to be suitable.

13          “(C) To cover the cost of reasonable ad-  
14          ministrative expenses of the Board, including  
15          expenses incurred under paragraphs (3)(C), (4),  
16          and (5).

17          “(3) MEMBERSHIP.—(A) The Board shall be  
18          appointed by the Secretary from nominations sub-  
19          mitted by the Governor of Guam. The Board shall  
20          be composed of nine members who are not officers  
21          or employees of the Federal Government.

22          “(B)(i) Except as provided in subparagraphs  
23          (B) and (C), members of the Board shall be ap-  
24          pointed to serve for a term of 3 years.

1           “(ii) Of the members initially appointed to the  
2 Board—

3           “(I) five members shall be appointed to  
4 serve for a term of 3 years, and

5           “(II) four members shall be appointed to  
6 serve for a term of 2 years,

7 as designated by the Secretary at the time of ap-  
8 pointment.

9           “(iii)(I) Any member of the Board appointed to  
10 fill a vacancy occurring before the expiration of the  
11 term for which a member was originally appointed  
12 shall be appointed to serve for the remainder of such  
13 term.

14           “(II) A member may serve after the expiration  
15 of the term of such member until such time as a  
16 successor takes office.

17           “(III) No member may serve for more than two  
18 consecutive terms.

19           “(C) Each member of the Board shall serve  
20 without pay, except that each member of the Board  
21 shall be entitled to receive reimbursement for travel,  
22 subsistence, and other necessary expenses incurred  
23 by the member in carrying out the functions of the  
24 Board, in the same manner as a person employed  
25 intermittently in the United States Government is

1 allowed expenses under section 5703 of title 5,  
2 United States Code.

3 “(D) Five members of the Board shall con-  
4 stitute a quorum, but a lesser number may hold  
5 hearings.

6 “(E) A Chairperson of the Board shall be elect-  
7 ed from among the members of the Board.

8 “(4) STAFF.—(A) The Board shall appoint a  
9 Director.

10 “(B) The Board may appoint and fix the pay  
11 of such additional staff as the Board may require.

12 “(C) The Director and the additional staff of  
13 the Board—

14 “(i) may be appointed—

15 “(I) without regard to section 5311(b)  
16 of title 5, United States Code; and

17 “(II) without regard to the provisions  
18 of such title governing appointments in the  
19 competitive service; and

20 “(ii) may be paid without regard to the  
21 provisions of chapter 51 and subchapter III of  
22 chapter 53 of title 5, United States Code, relat-  
23 ing to classification and General Schedule pay  
24 rates, except that the compensation of any em-  
25 ployee of the Board may not exceed a rate

1 equivalent to the minimum rate of basic pay  
2 payable for GS-15 of the General Schedule  
3 under section 5332(a) of such title.

4 “(5) ADMINISTRATIVE SUPPORT SERVICES.—  
5 The Administrator of General Services shall provide  
6 to the Board on a reimbursable basis such adminis-  
7 trative support services as the Board may request.

8 “(6) GIFTS AND DONATIONS.—The Board may  
9 accept, use, and dispose of gifts or donations of serv-  
10 ices or property for purposes authorized under para-  
11 graph (2).

12 “(7) ANNUAL REPORT.—Not later than 1 year  
13 after the initial meeting of the Board and annually  
14 thereafter, the Board shall transmit to the President  
15 and to Congress a report describing the activities of  
16 the Board.

17 “(i) NOTICE.—

18 “(1) IN GENERAL.—Not later than 90 days  
19 after the date of enactment of this section, the Sec-  
20 retary shall give public notice in the territory of  
21 Guam and such other places as the Secretary consid-  
22 ers appropriate concerning the period during which  
23 claims may be filed under this section. The Sec-  
24 retary shall ensure that the provisions of this section  
25 are widely published in the territory of Guam and



1 such other locations as the Secretary considers ap-  
2 propriate.

3 “(2) NOTICE AND ASSISTANCE.—To the maxi-  
4 mum extent practicable, the Secretary shall provide  
5 prompt notification to all individuals who may be-  
6 come eligible to make a claim for an award or bene-  
7 fit under this section and to assist such individuals  
8 in the preparation and filing of claims made under  
9 this section.

10 “(j) REPORTS.—

11 “(1) NECESSARY COMPENSATION.—Not later  
12 than 18 months after the date of enactment of this  
13 section, the Secretary shall submit a report to Con-  
14 gress and the Governor of Guam that contains a rec-  
15 ommendation concerning the amount of compensa-  
16 tion necessary to fully carry out this section. The re-  
17 port shall include—

18 “(A) a list of all claims, categorized by  
19 compensable injury, which were approved under  
20 this section; and

21 “(B) a list of all claims, categorized by  
22 compensable injury, which were denied under  
23 this section, and a brief explanation for the rea-  
24 son for the denials.

1           “(2) ANNUAL REPORT.—Not later than Janu-  
2           ary 15 of the first full fiscal year ending after sub-  
3           mittal of the report provided in paragraph (1), and  
4           annually thereafter, the Secretary shall submit a re-  
5           port to Congress that contains the following:

6                   “(A) The activities conducted by the Sec-  
7                   retary under this section.

8                   “(B) The status of the Claims Fund and  
9                   Trust Fund.

10                   “(C) Any request for an appropriation that  
11                   the Secretary determines to be necessary in  
12                   order to make disbursement from the Claims  
13                   Fund and Trust Fund.

14           “(3) FINAL AWARD REPORT.—At such time as  
15           the Secretary determines that all awards have been  
16           paid to eligible claimants, the Secretary shall submit  
17           a report to Congress and to the Governor of Guam  
18           certifying—

19                   “(A) the total amount of compensation  
20                   paid as awards under this section, by category  
21                   of compensable injury; and

22                   “(B) the final status of the Claims Fund  
23                   and the amount of any unobligated funds re-  
24                   maining in the Claims Fund to be transferred

1 to the Trust Fund pursuant to subsection  
2 (f)(2).

3 “(k) LIMITATION.—

4 “(1) LIMITATION ON REMUNERATION FOR  
5 SERVICES.—Notwithstanding any other provision of  
6 law—

7 “(A) any remuneration provided to any  
8 person on account of services rendered on be-  
9 half of any eligible claimant, or any association  
10 of eligible claimants, in connection with any  
11 claim made under this section may not exceed  
12 5 percent of the amount of the claim; and

13 “(B) any agreement between any person  
14 and an eligible claimant or an association of eli-  
15 gible claimants to provide remuneration in an  
16 amount that exceeds the amount specified in  
17 this paragraph shall be unlawful and void. Any  
18 agreement to the contrary shall be unlawful and  
19 void.

20 “(2) Whoever, in the United States or else-  
21 where in an area under the jurisdiction of the Fed-  
22 eral Government, demands or receives, on account of  
23 services so rendered, any remuneration in excess of  
24 the maximum permitted by this section, shall be  
25 guilty of a misdemeanor and upon conviction, shall

1 be fined in accordance with title 18, United States  
2 Code, or imprisoned not more than 12 months, or  
3 both.

4 “(l) DISCLAIMER.—Nothing contained in this section  
5 shall constitute an obligation of the United States to pay  
6 any claim arising out of war. The compensation provided  
7 in this section is ex gratia in nature intended solely as  
8 a means of recognizing the demonstrated loyalty of the  
9 people of Guam to the United States, and the suffering  
10 and deprivation arising therefrom, during World War II.

11 “(m) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated such sums as may be  
13 necessary to carry out this section. Amounts appropriated  
14 pursuant to this section are authorized to remain available  
15 until expended.”.

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S 2420 IS—2