

GUAM WAR CLAIMS REVIEW COMMISSION ACT

SEPTEMBER 6, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 755]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 755) to amend the Organic Act of Guam to provide 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 in World War II, and for other purposes, 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 out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Guam War Claims Review Commission Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Pursuant to the Treaty of Paris in 1898, which ended the war between Spain and the United States, the United States acquired sovereignty over Guam.

(2) For 51 years, from the end of the Spanish-American War until the transfer to the United States Department of the Interior in September 1949, Guam was administered by the United States Department of the Navy, and the people of Guam were United States nationals until August 1, 1950, when they became United States citizens upon the enactment of Guam’s Organic Act.

(3) On December 8, 1941, Japanese armed forces invaded Guam and seized control of the island from the United States, and occupied Guam which then had a population of approximately 22,290, for nearly 3 years.

(4) Guam was the only United States territory, possession, or State with civilians present, which was occupied by the Japanese armed forces during World War II.

(5) During this period of Japanese occupation, the people of Guam were subjected to death, personal injury, forced labor, forced march, and internment.

(6) On July 21, 1944, the United States liberated Guam from Japanese occupation.

(7) On June 9, 1945, in a letter from the Honorable H. Strive Hensel, Acting Secretary of the Navy, to the Honorable Sam Rayburn, Speaker of the House of Representatives, Mr. Hensel transmitted proposed legislation to provide relief to the residents of Guam through the settlement of meritorious claims.

(8) On November 15, 1945, the Guam Meritorious Claims Act (Public Law 79-224) authorized the Secretary of the Navy to adjudicate and settle claims, for a period of 1 year, for property damage occurring on Guam during the occupation of Japanese forces. Certification of claims in excess of \$5,000 or any claims for personal injury or death were to be forwarded to Congress.

(9) On January 8, 1947, United States Navy Secretary James Forrestal appointed a civilian commission, referred to as the Hopkins Commission, to study and make recommendations on the Naval administration of Guam.

(10) On March 25, 1947, the Hopkins Commission submitted a report (hereinafter referred to as the "Report") to Navy Secretary Forrestal, which summarized that settlements and payments for war damaged claims on property, personal injury, and death had proceeded slowly and stated that immediate steps should be taken to hasten this process and to remove unsound and unfair distinctions in the allowance for claims.

(11) The Report also stated that when many claimants were advised that the local Naval Claims Commission had power to settle and make immediate payments of claims not in excess of \$5,000 but that claims above that amount must go to Washington for further action with an indefinite time required for payment, they offered or agreed to reduce their claim to below \$5,000 and accept the loss above that amount, in order to receive money for much-needed personal rehabilitation.

(12) The Report recommended that the Guam Meritorious Claims Act be amended to authorize Naval officials to provide immediate "on the spot" settlement and payment of all claims.

(13) The Report also stated that officials of the Naval Claims Commission testified to the basic honesty and fairness of the Guamanians in presenting their claims, that review in Washington of claims between \$5,000 and \$10,000 did not seem to serve any useful purpose, and that sufficient reliance and trust should be placed with the Naval authorities in Guam to safeguard the national interest.

(14) The War Claims Act of 1948 (Public Law 80-896), was enacted by the Congress to address victims of World War II.

(15) The War Claims Act of 1948 authorized the creation of a commission to make inquiries and reports to settle claims of American citizens and military personnel imprisoned during World War II, civilian American citizens captured by the Imperial Japanese Government, United States contractual employees, and religious organizations located in the Philippines.

(16) Despite the recommendations from the Hopkins Commission to amend the Guam Meritorious Claims Act, the War Claims Act of 1948 did not address the claims arising out of the Japanese occupation of Guam.

(17) In 1950, Congress passed the Organic Act of Guam (Public Law 81-630), granting the people of Guam United States citizenship and a measure of self-government.

(18) On September 8, 1951, the United States, along with 47 Allied Powers, signed a peace treaty with Japan, in San Francisco, which waived all claims of reparations against Japan by United States citizens.

(19) In 1962, Congress passed Public Law 87-846, which amended the War Claims Act of 1948 and addressed the remaining United States citizens and nationals that had not received reparations from previous enacted laws.

(20) The people of Guam were excluded from the 1962 law because Federal policymakers believed that they were included in the War Claims Act of 1948.

(21) As a consequence, despite the study and recommendations of the Hopkins Commission, which concluded that reparations for Guam as provided by the Guam Meritorious Claims Act fell short of rehabilitating the island and redressing damages suffered by its people from the occupation of Japan, Congress failed to address the recommendations of the Hopkins Commission under the War Claims Act of 1948.

(22) On December 30, 1980, the Government of Guam created a Guam Reparations Commission which, among its other duties, compiled war damage claims for death, forced labor, forced march, internment, or injury, from survivors or descendants who did not receive any or full reparations under the Guam Meritorious Claims Act.

(23) Since given the authority to be represented in Congress by an elected representative in 1972, each Delegate from Guam to the United States House of Representatives has introduced legislation to correct the historical flaws of the Guam Meritorious Claims Act and the War Claims Act of 1948.

(24) Guam war restitution is long overdue.

(25) Congress supports the findings and recommendations of the Hopkins Commission and recognizes the declining population of survivors from the Japanese occupation of Guam in World War II.

(26) Congress finds sufficient cause to revisit Guam war restitution by establishing a commission to review the relevant history and to determine the appropriate relief damages to eligible claimants, the eligibility requirements, and the total amount necessary for compensation to the people of Guam who experienced the occupation by Japanese military forces in Guam from December 8, 1941, to July 21, 1944.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) **ESTABLISHMENT.**—There is hereby established a commission to be known as the “Guam War Claims Review Commission” (hereinafter referred to as the “Commission”).

(b) **MEMBERS.**—The Commission shall be composed of 5 members who by virtue of their background and experience are particularly suited to contribute to the achievement of the purposes of the Commission. The members shall be appointed by the Secretary of the Interior not later than 60 days after funds are made available for this Act. Two of the members shall be selected as follows:

(1) One member appointed from a list of three names submitted by the Governor of Guam.

(2) One member appointed from a list of three names submitted by the Guam Delegate to the United States House of Representatives.

(c) **CHAIRPERSON.**—The Commission shall select a Chairman from among its members. The term of office shall be for the life of the Commission.

(d) **COMPENSATION.**—Members of the Commission shall not be paid for their service as members, but in the performance of their duties, shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) **VACANCY.**—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

SEC. 4. STAFF.

The Commission may appoint and fix the pay of an executive director and other staff as it may require. The executive director and other staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter II of chapter 53 of such title, relating to the classification and General Schedule pay rates, except that the compensation of any employees of the Commission may not exceed a rate equivalent to the minimum rate of basic pay payable for GS–15 of the General Schedule under section 5332(a) of such title.

SEC. 5. ADMINISTRATIVE.

The Secretary of the Interior shall provide the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

SEC. 6. DUTIES OF COMMISSION.

The Commission shall—

(1) review the facts and circumstances surrounding the implementation and administration of the Guam Meritorious Claims Act and the effectiveness of such Act in addressing the war claims of American nationals residing on Guam between December 8, 1941, and July 21, 1944;

(2) review all relevant Federal and Guam territorial laws, records of oral testimony previously taken, and documents in Guam and the Archives of the Federal Government regarding Federal payments of war claims in Guam;

(3) receive oral testimony of persons who personally experienced the taking and occupation of Guam by Japanese military forces, noting especially the effects of infliction of death, personal injury, forced labor, forced march, and internment;

(4) determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act with war claims paid to United States citizens or nationals who lived in or had holdings in foreign countries and other possessions of the United States occupied by the Japanese during World War II;

- (5) estimate the total amount necessary to compensate the people of Guam for death, personal injury, forced labor, forced march, and internment; and
- (6) not later than 9 months after the Commission is established submit a report, including any comments or recommendations for action, to the Secretary of the Interior, the Committee on Resources and the Committee on the Judiciary of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate.

SEC. 7. POWERS OF THE COMMISSION.

Subject to general policies that the Commission may adopt, the Chairman of the Commission—

- (1) shall exercise the executive and administrative powers of the Commission; and
- (2) may delegate such powers to the staff of the Commission.

SEC. 8. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after submission of its report.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$500,000 to carry out this Act.

PURPOSE OF THE BILL

The purpose of H.R. 755 is to amend the Organic Act of Guam to provide 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 in World War II, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The United States acquired the territory of Guam in the western Pacific Ocean from Spain at the conclusion of the Spanish-American War in 1898. The residents of Guam promptly became U.S. nationals on the transfer of sovereignty from Spain to America under terms of the Treaty of Paris. As U.S. nationals, the people of Guam were steadfastly loyal to the Nation throughout the first half of the century, including the dark years of occupation by Japan in World War II.

Truly, it was during the reign of the invaders from the nearby Empire of Japan on American flag soil that the people of Guam demonstrated their unwavering loyalty to the United States in spite of the grievous atrocities of war, which included executions, mayhem, forced labor and marches, internment, and deprivation of fundamental human and civil rights. The U.S. nationals of Guam risked their lives and property to actively support U.S. forces liberating Guam and ending the foreign occupation of an American territory.

With the American flag once again flying over Guam, the campaign to end the war moved forward. Guam's close proximity to Japan initially made the territory vulnerable for occupation. However, Guam's location became an ideal staging area for the American offense that ended World War II in 1945.

There is a lot of historical information available to show that the United States had every intention of remedying the issue of war restitution for the people of Guam. In 1945, at the urging of the Acting Secretary of the Navy to the House of Representatives, the Guam Meritorious Claims Act was enacted which authorized the Navy to adjudicate and settle war claims in Guam for property damage for a period of one year. Claims in excess of \$5,000 for personal injury or death were to be forwarded to Congress. Unfortunately, that Act never fulfilled its intended purposes due to the

limited time frame for claims and the preoccupation with the local population to recover from the war, resettle their homes, and rebuild their lives.

On March 25, 1947, the Hopkins Commission, a civilian commission appointed by the U.S. Navy Secretary, issued a report which revealed the flaws of the 1945 Guam Meritorious Claims Act and recommended that the Act be amended to provide on-the-spot settlement and payment of all claims, including property, death and personal injury. However, despite the recommendations of the Hopkins Commission, the U.S. government failed to remedy the flaws of the Guam Meritorious Act when it enacted the War Claims Act of 1948, legislation which provided compensation for U.S. citizens who were victims of the Japanese war effort during World War II. This Act did not cover Guamanians, who were U.S. nationals and not U.S. citizens. Subsequently, Guamanians finally became U.S. citizens under the 1950 Organic Act of Guam.

In 1962, there was another attempt by Congress to address the remaining U.S. citizens and nationals that had not received reparations from previous enacted laws. Once again, however, Guamanians were inadvertently made ineligible because policymakers assumed that the War Claims Act of 1948 included them. Thus, Guam was left out of the 1962 act.

Leaders of Guam have repeatedly asked the United States to address the oversight. Action has been taken by every Guam delegate to Congress, including Delegates Antonio Won Pat and Ben Blaz, to directly authorize Guam war restitution. The last legislative action on the issue was during the 104th Congress when the House Resources Committee favorably reported Guam Delegate Robert A. Underwood's Guam War Restitution bill, H.R. 2041, out of Committee on October 11, 1996. There was no similar action during the 105th Congress.

One of the major obstacles to a resolution of restitution to Guam has been the lack of a comprehensive list of claimants by the federal government and the related amounts of reparations. A recent solution proposed during Congressional hearings was to temporarily establish a federal commission to first determine the universe of claims.

COMMITTEE ACTION

H.R. 755 was introduced on February 11, 1999, by Congressman Robert A. Underwood (D-GU). The bill was referred to the Committee on Resources. On April 13, 2000, the Committee held a hearing on the bill. On June 28, 2000, the full Resources Committee met to mark up the bill. Congressman Underwood offered an amendment in the nature of a substitute to establish a temporary federal commission by the Secretary of the Interior, lasting no more than 10 months at a cost not to exceed \$500,000, to estimate the total amount necessary to compensate the people of Guam for death, personal injury, forced labor, forced march, and internment. The amendment was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

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 Resources' oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in the bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article IV, section 3 of the Constitution of the United States grants Congress the authority 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. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

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:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 6, 2000.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 755, the Guam War Claims Review Commission Act.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 755—Guam War Claims Review Commission Act

H.R. 755 would establish the Guam War Claims Review Commission to consider restitution for those individuals who resided on the island of Guam, a territory of the United States, during its occupation by the Japanese in World War II. Under H.R. 755, the five commission members would establish eligibility requirements, determine the number of individuals who meet such requirements, and estimate the total amount that would be necessary to adequately compensate them for damages suffered during Japan's occupation. The commission would have nine months to report its findings to the Congress. To fund the costs of the commission, the bill would authorize the appropriation of \$500,000.

Assuming appropriation of the authorized amount, CBO estimates that implementing H.R. 755 would cost \$500,000 in fiscal year 2001. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. (The bill does not authorize the payment of restitution; such authority would require a separate act of the Congress.) H.R. 755 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

The CBO staff contact is John R. Righter. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

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.

