

## Calendar No. 437

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### GUAM WAR CLAIMS REVIEW COMMISSION ACT

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JUNE 24, 2002.—Ordered to be printed

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Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany H.R. 308]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 308) to establish the Guam War Claims Review Commission, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

#### PURPOSE

The purpose of H.R. 308 is to establish a Federal commission to determine whether there was parity between the war claims paid to residents of Guam compared with those paid to similarly affected United States citizens or nationals in other areas occupied by Japanese military forces during World War II, and to advise Congress whether additional compensation may be necessary.

#### BACKGROUND AND NEED

On December 8, 1941, military forces of the Empire of Japan invaded Guam and seized control of the island. At the time, Guam was an unincorporated territory of the United States administered by the United States Navy. Its 22,000 residents were United States nationals. The residents of Guam suffered personal injury, forced labor, forced marches, internment, and executions. Yet they remained loyal to the United States and risked their lives to support the allied war effort.

Efforts to compensate the residents of Guam for their suffering began shortly after the end of hostilities. The Guam Meritorious Claims Act of November 15, 1945 authorized the Secretary of the Navy to appoint a claims commission to pay war claims not in excess of \$5,000. The commission had to forward claims in excess of \$5,000 to Congress, which had to approve them. The Act required

claims to be filed within one year. The short time frame for filing claims may have prevented deserving claimants from receiving compensation.

In 1947, the Secretary of the Navy sent a commission headed by Ernest M. Hopkins to assess the war claims payment situation on Guam, among other things. The Hopkins commission recommended that new legislation be enacted to provide for the payment of claims up to \$10,000, but no action was taken on the commission's recommendations.

The War Claims Act of 1948 provided compensation for "civilian American citizens" captured on Guam or any other territory or possession of the United States attacked or invaded by Japan. It did not, however, provide compensation for the residents of Guam, who were United States nationals, but not "American citizens," prior to 1950. Congress amended the War Claims Act in 1962 to extend compensation to United States nationals for property loss, but specifically excluded claims for property located on the island of Guam.

In view of the patchwork of war claims laws, which provided different treatment for different groups of persons at different times, H.R. 308 is needed to examine whether the relief provided to the residents of Guam was on a par with that provided to similarly affected United States citizens or nationals in other areas occupied by the military forces of the Empire of Japan.

#### LEGISLATIVE HISTORY

H.R. 308 was introduced by Representative Underwood on January 30, 2001 and referred to the House Committee on Resources. The House of Representatives passed the bill by voice vote on March 13, 2001.

During the 106th Congress, the House of Representatives passed a similar measure, H.R. 755. It was referred to the Committee on Energy and Natural Resources in the Senate. A similar measure, S. 524, which was introduced by Senator Inouye, was referred to the Committee on Judiciary. No further action was taken on either H.R. 755 or S. 524.

The Committee on Energy and Natural Resources held a hearing on H.R. 308 on July 27, 2001. The Committee considered H.R. 308 at its business meeting on June 5, 2002, and ordered the bill favorably reported.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on June 5, 2002, by a voice vote of a quorum present, recommends that the Senate pass H.R. 308 without amendment.

#### SECTION-BY-SECTION

Section 1 provides a short title.

Section 2 establishes the Guam War Claims Review Commission and provides for the appointment and compensation of its members.

Section 3 authorizes the Commission to appoint an executive director and other employees. In accordance with section 3161 of title

5, United States Code, the executive director and other employees are in the excepted service of the civil service.

Section 4 directs the Secretary of the Interior to provide the Commission with administrative support services on a reimbursable basis.

Section 5 prescribes the duties of the Commission.

Section 6(a) authorizes the Chairman of the Commission to exercise its executive and administrative powers and to delegate such powers to the Commission's staff.

Section 6(b) authorizes the Commission to hold hearings and administer oaths and affirmations.

Section 6(c) authorizes the Commission to procure the temporary and intermittent services of experts and consultants.

Section 6(d) authorizes the head of any Federal department or agency to provide support to the Commission in carrying out its duties.

Section 7 provides that the Commission will terminate 30 days after it submits its report to Congress.

Section 8 authorizes \$500,000 to be appropriated to carry out the Act.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 14, 2002.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 308, 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 Matthew Pickford.

Sincerely,

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

Enclosure.

#### *H.R. 308—Guam War Claims Review Commission Act*

H.R. 308 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. 308, 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 act would authorize the appropriation of \$500,000.

Assuming appropriation of the authorized amount, CBO estimates that implementing H.R. 308 would cost \$500,000 in fiscal

year 2003. Because the act would not affect direct spending or receipts, pay-as-you-go procedures would not apply. The act does not authorize the payment of restitution; such authority would require a separate act of the Congress. H.R. 308 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 for this estimate is Matthew Pickford. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 308.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

Any additional personal information (other than information already available in existing archives) will be collected on a voluntary basis. Therefore, there should be no adverse impact on personal privacy.

Little, if any additional paperwork would result from the enactment of H.R. 308.

#### EXECUTIVE COMMUNICATIONS

On July 25, 2001, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on H.R. 308. These reports have not been received at the time the report was filed. The testimony provided by the Department of the Interior at the Committee hearing follows:

#### STATEMENT OF CHRISTOPHER KEARNEY, DEPUTY ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, it is a pleasure for me to appear before you today to discuss the Administration's views on H.R. 308—the Guam War Claims Review Commission Act.

#### H.R. 308—GUAM WAR CLAIMS REVIEW COMMISSION ACT

H.R. 308, the Guam War Claims Review Commission Act, would establish a five-member commission to: (1) Examine whether or not Guam War Claims compensation paid to residents of Guam was on parity with compensation provided to United States citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II, (2) advise on additional compensation for the people of Guam, and (3) submit a report, including comments and recommendations, within nine months to the Secretary of the Interior and relevant congressional committees.

### *Background*

Hours after December 7, 1941 attack on Pearl Harbor, the Japanese attacked and captured Guam. The Japanese were in full control of Guam until 1944. The people of Guam suffered during the occupation. Yet, they remained loyal to the United States, often risking their own personal safety to aid the American war effort and American military personnel left on the island.

In recognition of the suffering of these United States nationals, the first war claims act passed by the Congress was for Guam. It was called the Guam Meritorious Claims Act of November 11, 1945. It authorized the formation of a claims commission to make payments not to exceed \$5,000 for damage, loss or destruction of public or private property resulting from hostilities or hostile occupation or non-combat activities of United States armed forces or civilian personnel. If a claim exceeded \$5,000 or was for death or personal injury, it was to be forwarded to the Congress for payment out of appropriations.

In early 1947, a delegation headed by Ernest M. Hopkins was sent by Secretary of the Navy James V. Forrestal to assess the war claims payment situation on Guam, which was administered at the time by the Navy. The March 25, 1947 Hopkins delegation report stated:

The Guamanian people rendered heroic service to the Nation in the recent war and displayed great courage, fortitude and loyalty. Such services, equivalent to service on the field of battle, should be recognized both collectively and in specific cases, individually.

The Hopkins delegation called for legislation to pay all claims "on the spot" in Guam, including death and personal injury, and raising the limit to \$10,000. The Hopkins authors also recommended further relief for any person who had voluntarily reduced his claim to \$5,000. No action was taken on the Hopkins report.

A year later, the Congress passed the War Claims Act of 1948. Among other provisions was one to compensate "civilian American citizens" who were captured at Midway, Guam, Wake Island, the Philippine Islands, or any territory or possession of the United States attacked or invaded by the Imperial Japanese Government. Payments were made to persons who were interned by the Japanese and to widows and children of persons who died in internment. Virtually all the residents of Guam were "nationals" of the United States at that time, but not "citizens." Thus, the 1948 Act did not apply to most World War II residents of Guam.

The 1962 amendment to the War Claims Act of 1948 provided for payments to "nationals of the United States" for loss, destruction, or damage to property "except the Island of Guam." The 1962 amendments did not compensate for death or personal injury, except on the high seas.

What we have here is a patchwork of war claims laws focusing on differing groups of persons at differing times with relief for differing categories of suffering.

*Administration position*

The Administration supports H.R. 308, with a change that I will address shortly.

We believe that the central reason for this legislation is reflected in item (4) of section 5 of the bill. Item (4) calls for a commission to determine whether or not there was parity of war claims paid to residents of Guam as compared with awards paid to other similarly affected United States citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II. Examination of the history of war claims payments is warranted given questions involving the administration of the Guam Meritorious Claims Act and subsequent claims acts. By examining the payments under the various acts, the commission will be able to determine how claimants on Guam fared vis-a-vis United States citizens and other nationals with regard to different categories of suffering and deprivation for which awards were made.

I would now like to turn to item (5) of section 5, the one key area of concern we have with the bill. The term "people of Guam" and the listing of categories in item (5) would introduce new language not included in existing World War II war claims acts. Moreover, item (5) is redundant of item (6), which directs the commission to issue a report, "including any comments and recommendations for action." If the commission believes that "additional compensation" should be paid, based on analysis of the World War II war claims laws and information from Guam, it can include such a recommendation in its report. The Administration, therefore, suggests that item (5) of section 5 of H.R. 308 be removed from the bill.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by H.R. 308 as ordered reported.