

106TH CONGRESS  
2D SESSION

# H. R. 5432

To amend the Nazi War Crimes Disclosure Act to extend and modify the functions of the Nazi War Criminal Records Interagency Working Group to cover records of the Japanese Imperial Government, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2000

Mrs. MALONEY of New York (for herself and Mr. LANTOS) introduced the following bill; which was referred to the Committee on Government Reform

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## A BILL

To amend the Nazi War Crimes Disclosure Act to extend and modify the functions of the Nazi War Criminal Records Interagency Working Group to cover records of the Japanese Imperial Government, 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 “Nazi War Crimes and  
5       Japanese Imperial Government Disclosure Act”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

1           (1) In 1998, Congress adopted the Nazi War  
2 Crimes Disclosure Act (Public Law 105–246) re-  
3 quiring the executive branch to identify any still-  
4 classified records in its custody relating to Nazi war  
5 crimes, war criminals, persecution, and looted assets  
6 and to declassify and release such records to the  
7 American public. Under that Act, the President es-  
8 tablished the Nazi War Criminal Records Inter-  
9 agency Working Group (in this section referred to as  
10 the “Interagency Group”) to carry out the functions  
11 required by that Act.

12           (2) In its first year, the Interagency Group  
13 screened more than 600,000,000 pages of material  
14 relating to Nazi war crimes and has declassified  
15 1,500,000 pages of such material and opened them  
16 to the public at the National Archives.

17           (3) While the Interagency Group has worked  
18 diligently to screen materials and declassify millions  
19 of pages of material, the limited staff and funding  
20 available to the Interagency Group threaten its abil-  
21 ity to complete the functions required by the Nazi  
22 War Crimes Disclosure Act.

23           (4) Already, significant new information about  
24 the Holocaust has been revealed in the more than  
25 400,000 records of the Office of Strategic Services

1       that were released by the Interagency Group at the  
2       National Archives on June 26, 2000. However, fur-  
3       ther such revelations depend on the availability of  
4       adequate staff support and funding for the Inter-  
5       agency Group.

6               (5) The remarkable progress made by the Inter-  
7       agency Group has been achieved even though Con-  
8       gress has not appropriated funds for the support of  
9       the Interagency Group or for the activities carried  
10      out by the various Federal agencies which hold  
11      records subject to its functions. Without the re-  
12      sources to review the materials being released, it will  
13      be years before the significance of the contents of  
14      such materials will be understood.

15             (6) The Nazi War Crimes Disclosure Act  
16      charged the Interagency Group with reviewing all  
17      records that pertain to World War II, under the di-  
18      rection of, or in association with the Nazi govern-  
19      ment of Germany, any government occupied by the  
20      military of the Nazi government, and any govern-  
21      ment that was an ally of the Nazi government,  
22      which includes the Japanese Imperial Government.

23             (7) After the end of World War II, the United  
24      States returned more than 18,000,000 pages of cap-

1       tured Japanese records to the Japanese Government  
2       at its request.

3           (8) In order to complete the Congressional di-  
4       rectives of the Nazi War Crimes Disclosure Act, the  
5       Interagency Group should review the materials that  
6       were returned to Japan. Therefore, the full coopera-  
7       tion of the Japanese Government in granting access  
8       to the Interagency Group and assisting in the review  
9       of all World War II records is desired to insure that  
10      these historic records can be reviewed, released, or  
11      otherwise made available to the public in a timely  
12      and efficient manner.

13          (9) The Interagency Group has been working  
14      diligently to fulfill its charge under the Nazi War  
15      Crimes Disclosure Act, but the original three-year  
16      authorization of the Interagency Group under that  
17      Act does not allow for the completion of the momen-  
18      tous tasks outlined in that Act, specifically the com-  
19      pletion of the review of the records pertaining to the  
20      Japanese Government.

1 **SEC. 3. EXTENSION AND MODIFICATION OF AUTHORITY OF**  
2 **NAZI WAR CRIMINAL RECORDS INTER-**  
3 **AGENCY WORKING GROUP TO COVER JAPA-**  
4 **NESE IMPERIAL GOVERNMENT RECORDS.**

5 (a) AMENDMENT TO TITLE.—Section 1 of the Nazi  
6 War Crimes Disclosure Act (Public Law 105–246; 112  
7 Stat. 1859; 5 U.S.C. 552 note) is amended by striking  
8 “Nazi War Crimes Disclosure Act” and inserting “Nazi  
9 War Crimes and Japanese Imperial Government Disclo-  
10 sure Act”.

11 (b) EXTENSION OF AUTHORITY.—Section 2(b)(1) of  
12 such Act is amended by striking “3 years” and inserting  
13 “5 years”.

14 (c) MEMBERSHIP.—Section 2(b)(2) of such Act is  
15 amended by striking “3 other persons” and inserting “4  
16 other persons, who shall be members of the public and  
17 of whom 3 shall be persons appointed to the Interagency  
18 Group before the date of the enactment of the Nazi War  
19 Crimes and Japanese Imperial Government Disclosure  
20 Act”.

21 (d) FUNCTIONS REGARDING JAPANESE IMPERIAL  
22 GOVERNMENT RECORDS.—

23 (1) IN GENERAL.—Section 2(c)(1) of such Act  
24 is amended by inserting “and all classified Japanese  
25 Imperial Government records of the United States”  
26 after “of the United States”.

1           (2) DEFINITION OF JAPANESE IMPERIAL GOV-  
2       ERNMENT RECORDS.—Section 3 of such Act is  
3       amended—

4                   (A) by redesignating subsections (b) and  
5                   (c) as subsections (c) and (d), respectively; and

6                   (B) by inserting after subsection (a) the  
7       following new subsection (b):

8       “(b)       JAPANESE       IMPERIAL       GOVERNMENT  
9       RECORDS.—For purposes of this Act, the term ‘Japanese  
10       Imperial Government records’ means classified records or  
11       portions of records that pertain to any person with respect  
12       to whom the United States Government, in its sole discre-  
13       tion, has grounds to believe ordered, incited, assisted, or  
14       otherwise participated in the persecution of any person be-  
15       cause of race, gender, religion, national origin, or political  
16       opinion, during the period beginning September 18, 1931,  
17       and ending on September 2, 1945, under the direction of,  
18       or in association with—

19                   “(1) the Japanese Imperial Army;

20                   “(2) the Japanese Imperial Government;

21                   “(3) any government in any area occupied by  
22       the military forces of the Japanese Imperial Army;

23                   “(4) any government established with the as-  
24       sistance or cooperation of the Japanese Imperial  
25       Army or Japanese Imperial Government; or

1 “(5) any government which was an ally of the  
2 Japanese Imperial Government.”.

3 (3) APPLICATION OF EXEMPTIONS.—Paragraph  
4 (3)(A) of section 3(c) of such Act, as redesignated  
5 by paragraph (2)(A) of this section, is amended to  
6 read as follows:

7 “(A) IN GENERAL.—In applying the ex-  
8 emptions provided in subparagraphs (B)  
9 through (J) of paragraph (2), there shall be a  
10 presumption that the public interest will be  
11 served by disclosure and release of the Nazi war  
12 criminal records or Japanese Imperial Govern-  
13 ment records, as the case may be. The exemp-  
14 tion may be asserted only when the head of the  
15 agency that maintains the records determines  
16 that disclosure and release would be harmful to  
17 a specific interest identified in the exemption.  
18 An agency head who makes such a determina-  
19 tion shall promptly report such determination  
20 to the committees of Congress with appropriate  
21 jurisdiction, including the Committee on the Ju-  
22 diciary and the Select Committee on Intel-  
23 ligence of the Senate and the Committee on  
24 Government Reform and Oversight and the  
25 Permanent Select Committee on Intelligence of

1 the House of Representatives. The exemptions  
2 set forth in paragraph (2) shall constitute the  
3 only authority pursuant to which an agency  
4 head may exempt records otherwise subject to  
5 release under paragraph (1).”.

6 (4) CONFORMING AMENDMENTS.—Such Act is  
7 further amended as follows:

8 (A) In section 2(a)—

9 (i) by striking “and” at the end of  
10 paragraph (3);

11 (ii) by striking paragraph (4); and

12 (iii) by adding after paragraph (3) the  
13 following new paragraphs:

14 “(4) ‘Japanese Imperial Government records’  
15 has the meaning given such term under section 3(b)  
16 of this Act; and

17 “(5) ‘record’ means a Nazi war criminal record  
18 or a Japanese Imperial Government record.”.

19 (B) In section 3(c)(1), as redesignated by  
20 paragraph (2)(A) of this subsection, by insert-  
21 ing “and Japanese Imperial Government  
22 records” after “Nazi war criminal records”.

23 (C) In section 4(d), as so redesignated, by  
24 inserting “or Japanese Imperial Government  
25 record” after “Nazi war criminal record”.

1 (D) In section 4, by inserting “or Japanese  
2 Imperial Government record” after “Nazi war  
3 criminal record” each place it appears.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—Section  
5 2(d) of such Act is amended to read as follows:

6 “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated for the Interagency  
8 Group to carry out this section, \$5,000,000 for each of  
9 fiscal years 2001, 2002 and 2003.”.

10 (f) RECORDS INCLUDED.—Section 3(a)(2)(A) of such  
11 Act is amended by striking “beginning on March 23,  
12 1933, and ending on May 8, 1945” and inserting “begin-  
13 ning on January 1, 1931, and ending on September 2,  
14 1945”.

15 (g) MODIFICATION OF NAME OF INTERAGENCY  
16 GROUP.—Such Act is amended by striking “Nazi War  
17 Criminal Records Interagency Working Group” each place  
18 it appears and inserting “Nazi War Crimes and Japanese  
19 Imperial Government Records Interagency Working  
20 Group”.

21 (h) CLERICAL AMENDMENTS.—(1) The section head-  
22 ing of section 2 of such Act is amended to read as follows:

1 **“SEC. 2. ESTABLISHMENT OF NAZI WAR CRIMES AND JAPA-**  
2 **NESE IMPERIAL GOVERNMENT RECORDS**  
3 **INTERAGENCY WORKING GROUP.”.**

4 (2) The section heading of section 3 of such Act is  
5 amended to read as follows:

6 **“SEC. 3. REQUIREMENT OF DISCLOSURE OF NAZI WAR**  
7 **CRIMINAL RECORDS AND JAPANESE IMPE-**  
8 **RIAL GOVERNMENT RECORDS.”.**

9 (3) The section heading of section 4 of such Act is  
10 amended to read as follows:

11 **“SEC. 4. EXPEDITED PROCESSING OF FOIA REQUESTS FOR**  
12 **NAZI WAR CRIMINAL RECORDS AND JAPA-**  
13 **NESE IMPERIAL GOVERNMENT RECORDS.”.**  
14 **SEC. 4. REPORT ON ACTIVITIES OF NAZI WAR CRIMES AND**  
15 **JAPANESE IMPERIAL GOVERNMENT INTER-**  
16 **AGENCY WORKING GROUP.**

17 (a) REPORT REQUIRED.—Not later than 1 year after  
18 the date of the enactment of this Act, the Nazi War  
19 Crimes and Japanese Imperial Government Interagency  
20 Working Group shall submit to Congress, including the  
21 committees of Congress specified in subsection (b), a re-  
22 port on the activities of the Interagency Group under the  
23 Nazi War Crimes and Japanese Imperial Government Dis-  
24 closure Act, as amended by section 3 of this Act, during  
25 the one-year period ending on the date of the report. The  
26 report shall describe the activities of the Interagency

1 Group and applicable Federal agencies under section 2(c)  
2 of that Act, as so amended, and include a description of  
3 the records processed by the Interagency Group under  
4 that Act (including the disposition of such records).

5 (b) COMMITTEES OF CONGRESS.—The committees of  
6 Congress specified in this subsection are as follows:

7 (1) The Committee on the Judiciary and the  
8 Select Committee on Intelligence of the Senate.

9 (2) The Committee on the Judiciary, the Com-  
10 mittee on Government Reform and Oversight, and  
11 the Permanent Select Committee on Intelligence of  
12 the House of Representatives.

13 **SEC. 5. SENSE OF CONGRESS REGARDING COOPERATION**  
14 **OF FOREIGN NATIONS.**

15 It is the sense of Congress that foreign nations, and  
16 in particular Japan, should make every effort possible to  
17 make its records available to and cooperate with the Nazi  
18 War Crimes and Japanese Imperial Government Records  
19 Interagency Working Group established by section 2 of the  
20 Nazi War Crimes and Japanese Imperial Government Dis-  
21 closure Act, as amended by section 3 of this Act, in car-  
22 rying out the duties of the Interagency Group under such  
23 Act, as so amended.

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