

I MINA'TRENTA NA LIHESLATURAN GUAHAN
2009 (FIRST) Regular Session

Resolution No. 30-62 (COR)

As amended.

Introduced by:

v. c. pangelinan
T. R. Muña Barnes
Judith T. Won Pat, Ed.D.
T. C. Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
Adolpho B. Palacios, Sr.
M. J. Rector
R. J. Respicio
Telo Taitague
Ray Tenorio

Relative to petitioning the United States Congress to *amend* the Radiation Exposure Compensation Act of 1990, Public Law 101-426, as amended by Public Law 101-510, 3139 (42 U.S.C. 2210) and Public Law 106-245, to include Guam in the list of affected areas with respect to which claims relating to atmospheric nuclear testing shall be allowed.

1 **BE IT RESOLVED BY *I MINA'TRENTA NA LIHESLATURAN***
2 ***GUAHAN*:**

3 **WHEREAS**, the United States conducted testing of atomic nuclear weapons on
4 Enewetak and Bikini Atolls in the Marshall Islands, from 1946 to 1962. A total of

1 sixty-seven (67) atomic and thermonuclear bombs were detonated, which resulted in
2 radiation fallout across a wide area of the Pacific, including Guam. Similarly,
3 Continental United States residents were exposed to radiation resulting from the
4 Nevada nuclear weapons testing sites. Many subsequently developed serious diseases,
5 including various types of cancer. On October 1990, in order to establish a procedure
6 to make partial restitution to radiation exposure victims for their suffering, President
7 George H. Bush signed into law the Radiation Exposure Compensation Act (RECA).
8 RECA established the Radiation Exposure Compensation Program (RECP) with the
9 Civil Division of the Department of Justice to administer its responsibilities under the
10 Act. In April 1992, RECP began processing claims. RECA has been amended since
11 then. The RECA, as amended on July 10, 2000, further broadened the scope or
12 eligibility for benefits coverage to include new victim categories and modify the
13 criteria for determining eligibility for compensation; and

14 **WHEREAS**, RECA establishes a procedure to make partial restitution to
15 individuals who contracted serious diseases, such as certain types of cancers,
16 presumably resulting from their exposure to radiation from aboveground nuclear tests,
17 or as a result of their employment in uranium mines. The law established five (5)
18 claimant categories: uranium miners, uranium millers, ore transporters,
19 "downwinders" (those who were located downwind from aboveground nuclear
20 weapons tests conducted at the Nevada test sites), and onsite participants (those who
21 actually participated onsite); and

22 **WHEREAS**, RECA, as amended, broadens the population covered by the
23 Radiation Exposure Compensation Act, which authorizes monetary compensation to
24 individuals who were present, or nearby, when nuclear weapons tests were conducted
25 at the Nevada test site, or who worked in uranium mines, and later developed certain
26 diseases; adds more qualifying occupations relating to uranium production; increases

1 the number of states covered and extends the time period considered for radiation
2 exposure; adds more diseases which may qualify individuals for compensation;
3 decreases the level of radiation exposure that is necessary to qualify, and makes
4 certain that the medical criteria are less stringent for potential claimants; and

5 **WHEREAS**, nuclear tests that the United States Government conducted in the
6 Marshall Islands from 1946 until 1962 have led to increased levels of radiation in
7 some of the Micronesian Islands; and

8 **WHEREAS**, such increased levels of radiation may lead to serious health and
9 other environmental problems for life in such areas; and

10 **WHEREAS**, Guam is approximately one thousand two hundred (1,200) miles
11 directly west of the test sites; and

12 **WHEREAS**, the Atomic Energy Commission detonated sixty-seven (67)
13 nuclear devices, with a total yield of one hundred eight thousand four hundred ninety-
14 two and two tenths (108,492.2) kilotons in or around the Marshall Islands; and

15 **WHEREAS**, the atmospheric jet-stream travels generally westward from the
16 Marshall Islands, carrying radioactive material as fine as dust particles, and these
17 particles collected ice crystals at high altitudes and descended as cloud condensation.
18 This process is known as the scavenging effect; and

19 **WHEREAS**, the material drops to land surfaces and enters the food and water
20 supply consumed by the local population; and

21 **WHEREAS**, there were no less than ten (10) detonations that had the yield
22 necessary [five (5) to ten (10) megatons] to project material from the center of the
23 explosion to a height of between twelve (12) to fifty-five (55) miles, into the jet-
24 stream; and

25 **WHEREAS**, on October 31, 1952 (GMT), the first true thermonuclear H-
26 bomb, the Mike shot of Operation Ivy was detonated at Elugelab ("Flora") Island,

1 Enewetak Atoll. This 10.4 megaton device is the 4th largest device ever tested by the
2 United States, Elugelab (code named "Flora") was entirely destroyed. The resulting
3 crater was 6,240 ft. across and 164 ft. deep; and

4 **WHEREAS**, the mushroom cloud climbed to fifty-seven thousand (57,000)
5 feet in only ninety (90) seconds, entering the stratosphere. One (1) minute later it
6 reached one hundred eight thousand (108,000) feet, eventually stabilizing at a ceiling
7 of one hundred twenty thousand (120,000) feet. Half an hour after the test the
8 mushroom stretched sixty (60) miles across, with the base of the mushroom head
9 joining the stem at forty-five thousand (45,000) feet; and

10 **WHEREAS**, the sworn testimony of Charles Bert Schreiber, Lt, USN-Ret on
11 the Fallout of the First Hydrogen Bomb Test, the detonation of Ivy Mike, states that "I
12 was the Radiological Safety Officer for the Headquarters Command Guam. On or
13 about November 3, 1952, I was making my monthly check sitting at the desk in that
14 office that was about five (5) feet from the window screens that covered the wall all
15 the way down to about a couple of inches from the floor. I took out the metal
16 calibration rod (about as big as a normal soda straw and about six (6) inches long)
17 stored in the instrument that has a small radioactive source on its end. I put the
18 counter on the low setting (it has three (3): low, medium, and high) and was ready to
19 place the rod near the detection windows (two (2) of them), but the dial needle was
20 way over on the scale and the audible signal was clicking like mad, or almost a
21 continuous sound; sounds like constant static on a radio. My original thought was that
22 the counter was malfunctioning, but when I raised it up and put it nearer the screen
23 window, the dial needle swung even further over and the sound increased still further.
24 I then put it close to the screen near the floor and the needle went off the scale (as far
25 as it could swing right). I knew it was not the counter, but that there was some

1 radioactivity outside. I panicked. My first thought was that Guam had been subjected
2 to some radioactive dust attack.”; and

3 **WHEREAS**, the National Research Council's committee's analytical findings,
4 as noted in page 328 of their report, corroborates Mr. Schreiber's testimony; and

5 **WHEREAS**, reports from the United States Navy indicated they had full
6 knowledge and did not warn the local population; and

7 **WHEREAS**, ships present during the nuclear testing were decontaminated in
8 Guam harbors with acidic detergents and the runoff from the operations went directly
9 in the local fishing and reef environments; and

10 **WHEREAS**, according to the Department of Justice and in accordance with
11 Code of Federal Regulation Title 28, part 78 – Claims under the Radiation Exposure
12 Compensation Act, Subpart E -Eligibility Criteria for Claims by Onsite Participants,
13 Guam now meets the eligibility criteria for the wash down of military vessels/aircraft
14 from the nuclear testing conducted at the Pacific Proving Grounds, Marshall Islands;
15 and

16 **WHEREAS**, on May 2004 at the Guam Delegate's Office, a roundtable
17 teleconference meeting with Ms. Dianne Spellberg, Assistant Director for Civil
18 Division, Radiation Exposure Compensation Program, Dr. Evan B. Douple Director,
19 Board on Radiation Effects Research (BRER) committee, met with Guam local
20 leaders to discuss Guam's eligibility as “Onsite participant/Downwinders”; and

21 **WHEREAS**, Ms. Dianne Spellberg indicated that Guam meets the eligibility
22 criteria as an “Onsite participant” and she suggested for Congresswoman Madeleine
23 Z. Bordallo to submit a statutory amendment to the U.S. Congress to amend Title
24 28CFR79, Subpart E, Sec. 79.40 in order to include the population of Guam during
25 that time period; and

1 **WHEREAS**, on March 2004, Ms. Isaf Al-Nabulsi PhD. (Senior Study Director,
2 BRER) gave an invitation to W. Chris Perez M.D., Dr. Wesley Youngberg MPH, Mr.
3 Robert N. Celestial, and Delegate Madeleine Z. Bordallo to attend a BRER committee
4 hearing in Washington D.C.; and

5 **WHEREAS**, on March 24, 2004, a Guam delegation of Delegate Madeleine Z.
6 Bordallo, Guam Senator Carmen Fernandez and Mr. Robert N. Celestial presented
7 oral testimony and submitted documented evidence, gathered and prepared by Mr.
8 Celestial and the doctors, before the Committee to Assess the Scientific Information
9 for the Radiation Exposure Screening and Education Program, under the auspices
10 meeting of the National Research Council and mandated by Congress; and

11 **WHEREAS**, Ms. Isaf AI-Nabulsi Ph.D. has recently informed Guam officials
12 that the final review report was sent to the sponsor for review, and a copy of the report
13 has been sent to Guam officials; and

14 **WHEREAS**, the aforementioned committee's final report will be sent to
15 Congressional committee for action; and

16 **WHEREAS**, as previously stated *supra*, on October 15, 1990, former President
17 George H. Bush signed into law H.R. 2372 and was assigned Public Law No. 101-
18 426, the "Radiation Exposure Compensation Act." "This bill establishes new
19 entitlement programs for persons physically present in areas near the Nevada Nuclear
20 Test Site during atomic testing at the site. Atmospheric testing of atomic devices -
21 important to national security during the darkest days of the "cold war"- ended in 1963
22 when, under President Kennedy, the United States signed and ratified the Limited Test
23 Ban Treaty. Prior to the Treaty, the Unites States detonated over two hundred (200)
24 atomic devices in the open air, in both the South (sic) Pacific and in Nevada. The bill
25 provides compassionate payments to persons with specified diseases who fear that
26 their health was harmed because of fallout from atmospheric atomic testing at the

1 Nevada test site, regardless of whether causation can be scientifically established. The
2 bill entitles each person meeting specific criteria to a payment of Fifty Thousand
3 Dollars (\$50,000). Uranium miners meeting separate criteria will be entitled to
4 compassionate payments in the amount of One Hundred Thousand Dollars
5 (\$100,000). These payments fairly resolve the claims of persons present at the test
6 site and of downwind residents, as well as claims of uranium miners. The bill, which
7 is fiscally responsible, establishes a trust fund, and One Hundred Million Dollars
8 (\$100,000,000) is authorized to be appropriated to be paid into the fund. H.R. 2372 is
9 the result of close cooperation between the Administration and the Congress. As a
10 result of the Administration's initial concerns, many earlier objections have been
11 addressed, and the bill has been vastly improved. This legislation establishes a
12 compensation system in the executive branch that can be administered efficiently and
13 permit eligible claimants to receive compensation without the expense and delay of
14 traditional litigation."; and

15 **WHEREAS**, the people of Guam U.S.A. humbly request that they be included
16 under RECA as downwinders; and

17 **WHEREAS**, the Assessment of the Scientific Information for the Radiation
18 Exposure Screening and Education Program reports that the committee has explicitly
19 concluded; and

20 **WHEREAS**, "As a result of its analysis, the committee concludes that Guam
21 did receive measurable fallout from the atmospheric testing of nuclear weapons in the
22 Pacific. Residents of Guam during that period should be eligible for compensation
23 under RECA in a way similar to that of persons considered to be downwinders"; and

24 **WHEREAS**, H.R. 3379 entitled, "To amend the Radiation Exposure
25 Compensation Act to include the Territory of Guam in the list of affected areas with
26 respect to which claims relating to atmospheric nuclear testing shall be allowed, and

1 for other purposes.” was introduced in the 110th Congress by Guam Delegate
2 Madeleine Z. Bordallo on August 3, 2007, and the bill never became law and was
3 cleared from the books; and

4 **WHEREAS**, the bill was re-introduced as H.R. 1630 in the 111th Congress on
5 March 19, 2009, and has since been referred to the House Committee on the Judiciary;
6 now, therefore, be it

7 **RESOLVED**, that *I Mina'Trenta Na Liheslaturan Guåhan* does hereby, on
8 behalf of the people of Guam, petition the United States Congress to amend the
9 "Radiation Exposure Compensation Act of 1990", Public Law 101-426, as amended
10 by Public Law 101- 510, 3139 (42 U.S.C. 2210) and Public Law 106-245, to include
11 Guam in the jurisdictions (Downwinders /onsite participants) covered by the Act; and
12 be it further

13 **RESOLVED**, that the affected population previously and currently on Guam
14 (those residing who have been exposed to radiation resulting from the Atomic Energy
15 Commission tests in the Marshall Islands) be recognized as being “downwinders” of
16 such test, and eligible for compensation with compassionate payments under the
17 original intent of RECA, regardless of whether causation can be scientifically
18 established; and be it further

19 **RESOLVED**, that the Speaker certify, and the Legislative Secretary attest to,
20 the adoption hereof, and that copies of the same be thereafter transmitted to the
21 Honorable Barack Hussein Obama II, President of the United States of America; to
22 the Honorable William Jefferson Clinton, former President of the United States of
23 America; to the Honorable George H. W. Bush, former President of the United States
24 of America; to the Honorable Senator Patrick J. Leahy, Chairman, Committee on the
25 Judiciary, United States Senate; to the Honorable Senator Arlen Specter, Ranking
26 Member, Committee on the Judiciary, United States Senate; to the Honorable Senator

1 Edward M. Kennedy, Chairman, Committee on Health, Education, Labor, and
2 Pensions, United States Senate; to the Honorable Senator Michael B. Enzi, Ranking
3 Member, Committee on Health, Education, Labor, and Pensions, United States
4 Senate; to the Honorable Senator Daniel K. Akaka, United States Senate; to the
5 Honorable Madeleine Z. Bordallo, Member of Congress, U. S. House of
6 Representatives; to the Honorable Congressman John Conyers, Jr., Chairman,
7 Committee on the Judiciary, United States House of Representatives; to the Honorable
8 Congressman Lamar S. Smith, Ranking Member, Committee on the Judiciary, United
9 States House of Representatives; to the Honorable Congressman Henry A. Waxman,
10 Chairman, Committee on Energy and Commerce, United States House of
11 Representatives; to the Honorable Congressman Joe Barton, Ranking Member,
12 Committee on Energy and Commerce, United States House of Representatives; to the
13 Honorable Congressman Neil Abercrombie, United States House of Representatives;
14 to Mr. RJ Ritter, National Commander, National Association of Atomic Veterans; to
15 Mr. Bob Kilthau, Hawaii State Commander, National Association of Atomic
16 Veterans; to all the State and Area Commanders of the National Association of
17 Atomic Veterans; to Mr. Robert N. Celestial, PARS President; to the family of the late
18 Honorable Angel L.G. Santos; to the family of the late Speaker Antonio R. Unpingco;
19 to the Honorable Carmen Fernandez, former Senator; to Vice-Speaker Benjamin J.F.
20 Cruz; to the Honorable Robert Underwood, former Congressman; to W. Chris Perez
21 M.D., Doctors Clinic; to Dr. Wesley Youngberg, SDA Wellness Center; to Dr. Pablo
22 Guzman, M.D., (FACP); and to the Honorable Felix P. Camacho, *I Maga'lahen*
23 *Guåhan*.

DULY AND REGULARLY ADOPTED BY *I MINA'TRENTA NA LIHESLATURAN GUÅHAN* ON THIS 29TH DAY OF JUNE 2009.



JUDITH T. WON PAT, Ed.D.
Speaker



TINA ROSE MUÑA BARNES
Legislative Secretary