*I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN*
**2007 (FIRST) Regular Session**

Introduced
FEB 16 2007
5:00PM

**Resolution No.** 5(EC)

**Introduced by:**

**Mark Forbes**
**T.R. Muña Barnes**
**v.c. pangelinan**

**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 jurisdiction (Downwinders).**

**BE IT RESOLVED BY THE EXECUTIVE COMMITTEE OF THE TWENTY-NINTH GUAM LEGISLATURE:**

**WHEREAS,** the United States conducted testing of atomic nuclear weapons on Enewetok and Bikini Atolls in the Marshall Islands, from 1946 to 1962. A total of sixty-seven (67) atomic and thermonuclear bombs were detonated which resulted in radiation fallout across a wide area of the Pacific including Guam. Similarly, Continental United States residents were exposed to radiation resulting from the Nevada nuclear weapons testing sites. Many subsequently developed serious diseases, including various types of

1 cancer. On October 1990, in order to establish a procedure to make
2 partial restitution to radiation exposure victims for their suffering,
3 President George H. Bush signed into law the Radiation Exposure
4 Compensation Act (RECA). RECA established the Radiation
5 Exposure Compensation Program (RECP) with the Civil Division of
6 the Department of Justice to administer its responsibilities under the
7 Act. In April 1992, RECP began processing claims. RECA has been
8 amended since then. The RECA, as amended on July 10, 2000,
9 further broadened the scope or eligibility for benefits coverage to
10 include new victim categories and modify the criteria for
11 determining eligibility for compensation: and

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

1 sites), and onsite participants (those who actually participated
2 onsite); and

3 **WHEREAS,** RECA as amended; broadens the population
4 covered by the Radiation Exposure Compensation Act, which
5 authorizes monetary compensation to individuals who were present
6 or nearby when nuclear weapons tests were conducted at the
7 Nevada test site, or who worked in uranium mines, and later
8 developed certain diseases; adds more qualifying occupations
9 relating to uranium production; increases the number of states
10 covered and extends the time period considered for radiation
11 exposure; adds more diseases which may qualify individuals for
12 compensation; decreases the level of radiation exposure that is
13 necessary to qualify, makes certain that the medical criteria are less
14 stringent for potential claimants; and

15 **WHEREAS,** nuclear tests that the United States Government
16 conducted in the Marshall Islands from 1946 until 1962 have led to
17 increased levels of radiation in some of the Micronesia Islands; and

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

**WHEREAS,** Guam is approximately one thousand two-hundred (1200) miles directly west of the test sites; and

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

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

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

**WHEREAS,** there were no less than ten (10) detonations that had the yield necessary [five (5) to ten (10) megatons] to project

1 material from the center of the explosion to the height of between
2 twelve (12) to fifty-five (55) miles, into the jet-stream; and

3 **WHEREAS,** on October 31, 1952, (GMT) the first true
4 thermonuclear H-bomb, the Mike shot of operation Ivy was
5 detonated at Elugelab ("Flora") Island, Enewetak Atoll. This 10.4
6 megaton device is the 4th largest device ever tested by the U.S.
7 Elugelab (code named Flora), was entirely destroyed. The resulting
8 crater was 6240 ft. across and 164 ft deep; and

9 **WHEREAS,** the mushroom cloud climbed to 57,000 feet in only
10 90 seconds, entering the stratosphere. One minute later it reached
11 108,000 feet, eventually stabilizing at a ceiling of 120,000 ft. Half an
12 hour after the test the mushroom stretched 60 miles across, with the
13 base of the mushroom head joining the stem at 45,000 feet; and

14 **WHEREAS,** the sworn testimony of Charles Bert Schreiber, Lt,
15 USN-Ret on the Fallout of the First Hydrogen Bomb Test, the
16 detonation of Ivy Mike, states that "I was the Radiological Safety
17 Officer for the Headquarters Command Guam. On or about
18 November 3, 1952 I was making my monthly check sitting at the desk
19 in that office that was about 5 feet from the window screens that

1 covered the wall all the way down to about a couple of inches from
2 the floor. I took out the metal calibration rod (about as big as a
3 normal soda straw and about 6 inches long) stored in the instrument
4 that has a small radioactive source on its end. I put the counter on the
5 low setting (it has three; low, medium, and high) and was ready to
6 place the rod near the detection windows (two of them), but the dial
7 needle was way over on the scale and the audible signal was clicking
8 like mad, or almost a continuous sound; sounds like constant static
9 on a radio. My original thought was that the counter was
10 malfunctioning, but when I raised it up and put it nearer the screen
11 window, the dial needle swung even further over and the sound
12 increased still further. I then put it close to the screen near the floor
13 and the needle went off the scale (as far as it could swing right). I
14 knew it was not the counter, but that there was some radioactivity
15 outside. I panicked. My first thought was that Guam had been
16 subjected to some radioactive dust attack."; and

17 **WHEREAS,** the National Research Council's committee's
18 analytical findings as noted in page 328 of their report corroborates
19 Mr. Schreiber's te stimony; and

1 WHEREAS, reports from the United States Navy indicated that they
2 had full knowledge and did not warn the local population; and

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

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

14 **WHEREAS,** on May 2004 at the Guam Delegate's office a
15 round table teleconference meeting with Ms. Dianne Spellberg,
16 Assistant Director for Civil Division, Radiation Exposure
17 Compensation Program, Dr. Evan B. Douple Director, Board on
18 Radiation Effects Research committee, met with Guam local leaders

1 to discuss Guam' s eligibility as "On site
2 participant/Downwinders"; and
3 **WHEREAS,** Ms. Dianne Spellberg indicated that Guam meets
4 the eligibility criteria as an "Onsite participant" and she suggested
5 for Congresswoman Madeleine Z. Bordallo to submit a statutory
6 amendment to the U.S. Congress to amend Title 28CFR79, Subpart E,
7 Sec. 79.40 in order to include the population of Guam during that
8 time period; and
9 **WHEREAS,** on March 2004, Ms. Isaf Al-Nabulsi PhD. (Senior
10 Study Director) BRER gave an invitation to W. Chris Perez M.D., Dr.
11 Wesley Youngberg MPH, Mr. Robert N. Celestial, and Delegate
12 Madeleine Z. Bordallo to attend a BRER committee hearing in
13 Washington D.C.; and
14 **WHEREAS,** on March 24, 2004, a Guam delegation of Delegate
15 Madeleine Z. Bordallo, Guam Senator Carmen Fernandez and Mr.
16 Robert N. Celestial presented oral testimony and submitted
17 documented evidence, gathered and prepared by Mr. Celestial and
18 the doctors, before the Committee to Assess the Scientific Information
19 for the Radiation Exposure Screening and Education Program, under

1 the auspices meeting of the National Research Council and mandated
2 by Congress; and

3 **WHEREAS,** Ms. Isaf Al-Nabulsi PhD, has recently informed
4 Guam officials that the final review report was sent to the sponsor for
5 review, and a copy of the report has been sent to Guam officials; and

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

8 **WHEREAS,** as previously stated supra, on October 15, 1990
9 President George H. Bush signed into law H.R. 2372 and was
10 assigned Public Law No. 101-426 the "Radiatio n Exposure
11 Compensation Act." "This bill establishes new entitlement
12 programs for persons physically present in areas near the Nevada
13 Nuclear Test Site during atomic testing at the site. Atmospheric
14 testing of atomic devices—important to national security during the
15 darkest days of the "cold war"—ended in 1963 when, under
16 President Kennedy, the United States signed and ratified the Limited
17 Test Ban Treaty. Prior to the Treaty, the Unites States detonated over
18 200 atomic devices in the open air, in both the South (sic) Pacific and
19 in Nevada. The bill provides compassionate payments to persons

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

1 **WHEREAS,** the people of Guam U.S.A. humbly request that
2 they be included under RECA as downwinders; and
3 **WHEREAS,** the Assessment of the Scientific Information for
4 the Radiation Exposure Screening and Education Program reports
5 that the committee has explicitly concluded; and
6 **WHEREAS,** "As a result of its analysis, the committee
7 concludes that Guam did receive measurable fallout from the
8 atmospheric testing of nuclear weapons in the Pacific. Residents of
9 Guam during that period should be eligible for compensation under
10 RECA in a way similar to that of persons considered to be
11 downwinders"; and be it
12 **RESOLVED,** that *I Mina'bente Nuebi Na Liheslaturan Guåhan*
13 does hereby, on behalf of the people of Guam, petition the United
14 States Congress to amend the "Radi ation Exposure Compensation
15 Act of 1990", Public Law 101-426, as amended by Public Law 101-510,
16 3139 (42 U.S.C. 2210) and Public Law 106-245, to include Guam in the
17 jurisdictions (Downwinders/onsite participants) covered by the Act;
18 and be it further

1 **RESOLVED,** that the affected population previously and
2 currently on Guam (those residing who have been exposed to
3 radiation resulting from the Atomic Energy Commission tests in the
4 Marshall Islands) be recognized as being "downwinders" of such
5 test, and eligible for compensation with compassionate payments
6 under the original intent of RECA regardless of whether causation
7 can be scientifically established; and be it further

8 **RESOLVED,** that the Speaker and the Legislative Secretary
9 attest to, the adoption hereof and that copies of the same be thereafter
10 transmitted to the Honorable Senator Patrick J. Leahy, Chairman,
11 Committee on the Judiciary, United States Senate; to the Honorable
12 Senator Arlen Spector, Ranking Member, Committee on the
13 Judiciary, United States Senate; to the Honorable Senator Edward M.
14 Kennedy, Chairman, Committee on Health, Education, Labor, and
15 Pensions, United States Senate; to the Honorable Senator Michael B.
16 Enzi, Ranking Member, Committee on Health, Education, Labor, and
17 Pensions, United States Senate; to the Honorable Senator Daniel K.
18 Akaka, United States Senate; to the Honorable Congressman John
19 Conyers, Jr., Chairman, Committee on the Judiciary, United States

1 House of Representatives; to the Honorable Congressman Lamor S.
2 Smith, Ranking Member, Committee on the Judiciary, United States
3 House of Representatives; to the Honorable Congressman John D.
4 Dingell, Chairman, Committee on Energy and Commerce, United
5 States House of Representatives; to the Honorable Congressman Joe
6 Borton , Ranking Member, Committee on Energy and Commerce,
7 United States House of Representatives; to the Honorable
8 Congressman Neil Abercrombie, United States House of
9 Representatives; to Mr. Charles L. Wisner, National Commander,
10 National Association of Atomic Veterans; to Mr. Charlie Clark,
11 Hawaii State Commander, National Association of Atomic Veterans;
12 to all the State and Area Commanders of the National Association of
13 Atomic Veteran; to Mr. Robert N. Celestial, PARS President; to the
14 family of the late Honorable Angel L.G. Santos, Carmen Fernandez,
15 former Senator; Benjamin J.F. Cruz, former Senator; to Senator
16 Antonio R. Unpingco; and to Dr. Robert Underwood, former
17 Congressman; to the Honorable George Herbert Walker Bush, former
18 President of the United States of America; to the Honorable William
19 Jefferson Clinton, former President of the United States of America;

1 to the Honorable George W. Bush, President of the United States of
2 America; to W. Chris Perez MD., Doctors Clinic, to Dr. Wesley
3 Youngberg, SDA Wellness Center, Dr. Pablo Guzman, MD, FACP)
4 to the Honorable Madeleine Z. Bordallo, Member of Congress, U. S.
5 House of Representatives; and to the Honorable Felix P. Camacho, *I*
6 *Maga'lahen Guåhan* .
7 DULY AND REGULARLY ADOPTED BY *I MINA'BENTE NUEBI*
8 *NA LIHESLATURAN GUÅHAN* ON THE____DAY OF____2007.
9 _____ _____
10 MARK FORBES RAY TENORIO
11 Speaker Secretary of the Legislature
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