

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

Resolution No. 5 (EC)

As amended by the Committee on
Education, General & Omnibus
Affairs and further amended on
the Floor.

Introduced by:

Mark Forbes
Tina Rose Muña Barnes
v. c. pangelinan
Frank F. Blas, Jr.
Edward J.B. Calvo
James V. Espaldon
Judith Paulette Guthertz
Frank T. Ishizaki
J. A. Lujan
A. B. Palacios, Sr.
R. J. Respicio
David L.G. Shimizu
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

**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).**

1 **BE IT RESOLVED BY I MINA'BENTE NUEBI NA LIHESLATURAN**
2 **GUÅHAN:**

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

1 1962. A total of sixty-seven (67) atomic and thermonuclear bombs were
2 detonated causing radiation fallout across a wide area of the Pacific, including
3 Guam. Similarly, Continental United States residents were exposed to radiation
4 resulting from the Nevada nuclear weapons testing sites. Many subsequently
5 developed serious diseases, including various types of cancer. On October 1990,
6 in order to establish a procedure to make partial restitution to radiation exposure
7 victims for their suffering, President George H. Bush signed into law the
8 Radiation Exposure Compensation Act (RECA). RECA established the Radiation
9 Exposure Compensation Program (RECP) with the Civil Division of the
10 Department of Justice to administer its responsibilities under the Act. In April
11 1992, RECP began processing claims. The RECA, as amended on July 10, 2000,
12 broadened the scope of eligibility for benefits to include new victim categories
13 and to modify the criteria for 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
17 nuclear tests or as a result of their employment in uranium mines. The law
18 established five (5) claimant categories: uranium miners, uranium millers, ore
19 transporters, "downwinders" (those who were located downwind from
20 aboveground nuclear weapons tests conducted at the Nevada test sites), and
21 onsite participants (those who actually participated onsite); and

22 **WHEREAS**, RECA, as amended, broadens coverage to authorize monetary
23 compensation to individuals who were present or nearby when nuclear weapons
24 tests were conducted at the Nevada test site, or who worked in uranium mines,

1 and later developed certain diseases; adds more qualifying occupations relating
2 to uranium production; increases the number of states covered and extends the
3 time period considered for radiation exposure; adds more diseases which may
4 qualify individuals for compensation; decreases the level of radiation exposure
5 that is necessary to qualify; and establishes medical criteria that are less stringent
6 for potential claimants; and

7 **WHEREAS**, nuclear tests conducted by the United States government in
8 the Marshall Islands from 1946 until 1962 have led to increased levels of
9 radiation in some of the Micronesian Islands; and

10 **WHEREAS**, such increased levels of radiation have led to serious health
11 and other environmental problems for life in such areas; and

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

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

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

21 **WHEREAS**, the material drops to land surfaces and enters the food and
22 water supply of the local population; and

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

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

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

16 **WHEREAS**, the sworn testimony of Charles Bert Schreiber, Lt., USN-Ret,
17 on the fallout of the First Hydrogen Bomb Test, the detonation of Ivy Mike, states
18 that "I was the Radiological Safety Officer for the Headquarters Command
19 Guam. On or about November 3, 1952, I was making my monthly check sitting at
20 the desk in that office that was about five (5) feet from the window screens that
21 covered the wall all the way down to about a couple of inches from the floor. I
22 took out the metal calibration rod (about as big as a normal soda straw and about
23 six (6) inches long) stored in the instrument that has a small radioactive source
24 on its end. I put the counter on the low setting (it has three (3); low, medium, and

1 high) and was ready to place the rod near the detection windows (two (2) of
2 them), but the dial needle was way over on the scale and the audible signal was
3 clicking like mad, or almost a continuous sound; sounds like constant static on a
4 radio. My original thought was that the counter was malfunctioning, but when I
5 raised it up and put it nearer the screen window, the dial needle swung even
6 further over and the sound increased still further. I then put it close to the screen
7 near the floor and the needle went off the scale (as far as it could swing right). I
8 knew it was not the counter, but that there was some radioactivity outside. I
9 panicked. My first thought was that Guam had been subjected to some
10 radioactive dust attack"; and

11 **WHEREAS**, the National Research Council's committee's analytical
12 findings, as noted on page 328 of their report, corroborate Mr. Schreiber's
13 testimony; and

14 **WHEREAS**, reports from the United States Navy indicated that it had full
15 knowledge of the test and did not warn the local population; and

16 **WHEREAS**, ships present during the nuclear testing were decontaminated
17 in Guam harbors with acidic detergents and the runoff therefrom went directly
18 to the local fishing and reef environments; and

19 **WHEREAS**, according to the Department of Justice and in accordance with
20 Code of Federal Regulation Title 28, Part 78 – Claims under the Radiation
21 Exposure Compensation Act, Subpart E – Eligibility Criteria for Claims by Onsite
22 Participants, Guam now meets the eligibility criteria because of the wash down
23 of military vessels/aircraft from the nuclear testing conducted at the Pacific
24 Proving Grounds Marshall Islands; and

1 **WHEREAS**, in May 2004, at the Guam Delegate’s office, a round table
2 teleconference occurred as Ms. Dianne Spellberg, Assistant Director for Civil
3 Division, Radiation Exposure Compensation Program and Dr. Evan B. Douple
4 Director, Board on Radiation Effects Research committee, met with Guam leaders
5 to discuss Guam’s eligibility as “Onsite participant/Downwinders”; and

6 **WHEREAS**, Ms. Dianne Spellberg indicated that Guam meets the
7 eligibility criteria as an “Onsite participant” and she suggested that
8 Congresswoman Madeleine Z. Bordallo submit a bill to the U.S. Congress to
9 amend Title 28 C.F.R. 79, Subpart E, Sec. 79.40, to include the population of
10 Guam during that time period; and

11 **WHEREAS**, on March 2004, Ms. Isaf Al-Nabulsi Ph.D. (Senior Study
12 Director) BRER invited W. Chris Perez, M.D., Dr. Wesley Youngberg M.P.H., Mr.
13 Robert N. Celestial, and Delegate Madeleine Z. Bordallo to attend a BRER
14 committee hearing in Washington D.C.; and

15 **WHEREAS**, on March 24, 2004, a Guam delegation of Delegate Madeleine
16 Z. Bordallo, Guam Senator Carmen Fernandez and Mr. Robert N. Celestial
17 presented oral testimony and documented evidence, gathered and prepared by
18 Mr. Celestial and the doctors, to the Committee to Assess the Scientific
19 Information for the Radiation Exposure Screening and Education Program,
20 under the auspices of the National Research Council as mandated by Congress;
21 and

22 **WHEREAS**, Ms. Isaf Al-Nabulsi, Ph.D., recently informed Guam officials
23 that the final report was sent to the sponsor for review and a copy of the report
24 has been sent to Guam officials; and

1 **WHEREAS**, the aforementioned committee's final report will be sent to
2 Congress for action; and

3 **WHEREAS**, as previously stated, on October 15, 1990, President George H.
4 Bush signed into law Public Law No. 101-426, the "Radiation Exposure
5 Compensation Act." "This bill establishes new entitlement programs for persons
6 physically present in areas near the Nevada Nuclear Test Site during atomic
7 testing at the site. Atmospheric testing of atomic devices—important to national
8 security during the darkest days of the "cold war"—ended in 1963 when, under
9 President Kennedy, the United States signed and ratified the Limited Test Ban
10 Treaty. Prior to the Treaty, the United States detonated over two hundred (200)
11 atomic devices in the open air, in both the South (sic) Pacific and in Nevada. The
12 bill provides compassionate payments to persons with specified diseases who
13 fear that their health was harmed because of fallout from atmospheric atomic
14 testing at the Nevada test site, regardless of whether causation can be
15 scientifically established. The bill entitles each person meeting specific criteria to
16 a payment of Fifty Thousand Dollars (\$50,000). Uranium miners meeting
17 separate criteria will be entitled to compassionate payments in the amount of
18 One Hundred Thousand Dollars (\$100,000). These payments fairly resolve the
19 claims of persons present at the test site and of downwind residents and
20 uranium miners. The bill, which is fiscally responsible, establishes a trust fund,
21 and One Hundred Million Dollars (\$100,000,000) is authorized to be
22 appropriated to be paid into the fund. H.R. 2372 is the result of close cooperation
23 between the Administration and the Congress. As a result of the
24 Administration's initial concerns, many earlier objections have been addressed

1 and the bill has been vastly improved. This legislation establishes a
2 compensation system in the executive branch that can be administered efficiently
3 and permit eligible claimants to receive compensation without the expense and
4 delay of traditional litigation"; and

5 **WHEREAS**, the people of Guam U.S.A. strongly request that they be
6 included under RECA as downwinders, as recommended by BRER committee,
7 with eligibility criteria for the time period of exposure to nuclear fallout from
8 1946 through 1974 and under the current law (P.L. 101-426); and

9 **WHEREAS**, the Assessment of the Scientific Information for the
10 Radiation Exposure Screening and Education Program reports that:

11 "As a result of its analysis, the committee concludes that Guam
12 did receive measurable fallout from the atmospheric testing of nuclear
13 weapons in the Pacific. Residents of Guam during that period should be
14 eligible for compensation under RECA in a way similar to that of persons
15 considered to be downwinders"; now, therefore, be it

16 **RESOLVED**, that *I Mina'Bente Nuebi Na Liheslaturan Guåhan* does hereby,
17 on behalf of the people of Guam, petition the United States Congress, through
18 our member of Congress, the Honorable Madeleine Z. Bordallo, to amend the
19 "Radiation Exposure Compensation Act of 1990", Public Law 101-426, as
20 amended by Public Law 101-510, 3139 (42 U.S.C. 2210) and Public Law 106-245,
21 to include Guam in the categories (Downwinders/onsite participants) covered
22 by the Act; and be it further

23 **RESOLVED**, that the population previously and currently residing on
24 Guam who were exposed to radiation resulting from the Atomic Energy

1 Commission tests in the Marshall Islands be recognized as “downwinders” of
2 such tests and therefore eligible for compensation from compassionate
3 payments under the original intent of RECA regardless of whether causation
4 can be scientifically established; and be it further

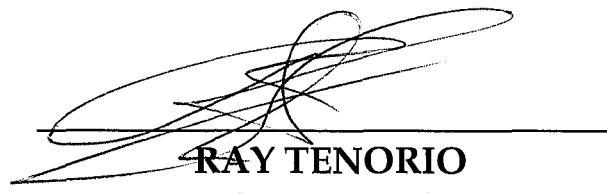
5 **RESOLVED**, that the Speaker certify, and the Secretary of the
6 Legislature attest to, the adoption hereof, and that copies of the same be
7 thereafter transmitted to the Honorable Senator Patrick J. Leahy, Chairman,
8 Committee on the Judiciary, United States Senate; to the Honorable Senator
9 Arlen Specter, Ranking Member, Committee on the Judiciary, United States
10 Senate; to the Honorable Senator Edward M. Kennedy, Chairman, Committee
11 on Health, Education, Labor, and Pensions, United States Senate; to the
12 Honorable Senator Michael B. Enzi, Ranking Member, Committee on Health,
13 Education, Labor, and Pensions, United States Senate; to the Honorable
14 Senator Daniel K. Akaka, United States Senate; to the Honorable Senator
15 Daniel K. Inouye, Hawaii; to the Honorable Congressman John Conyers, Jr.,
16 Chairman, Committee on the Judiciary, United States House of
17 Representatives; to the Honorable Congressman Lamar S. Smith, Ranking
18 Member, Committee on the Judiciary, United States House of Representatives;
19 to the Honorable Congressman John D. Dingell, Chairman, Committee on
20 Energy and Commerce, United States House of Representatives; to the
21 Honorable Congressman Joe Barton, Ranking Member, Committee on Energy
22 and Commerce, United States House of Representatives; to the Honorable
23 Congressman Neil Abercrombie, United States House of Representatives; to
24 Mr. Charles L. Wisner, National Commander, National Association of Atomic

1 Veterans; to Mr. Charlie Clark, Hawaii State Commander, National
2 Association of Atomic Veterans; to all the State and Area Commanders of the
3 National Association of Atomic Veterans; to Mr. Robert N. Celestial, PARS
4 President; to the family of the late Honorable Angel L.G. Santos; to the
5 Honorable Carmen Fernandez, former Senator; to the Honorable Benjamin J.F.
6 Cruz, former Senator; to Senator Antonio R. Unpingco; to the Honorable
7 Robert Underwood, former Congressman; to the Honorable George Herbert
8 Walker Bush, former President of the United States of America; to the
9 Honorable William Jefferson Clinton, former President of the United States of
10 America; to the Honorable George W. Bush, President of the United States of
11 America; to W. Chris Perez M.D., Doctors Clinic; to Dr. Wesley Youngberg,
12 SDA Wellness Center; to Dr. Pablo Guzman, M.D., FACP; to the Honorable
13 Madeleine Z. Bordallo, Delegate to Congress, U. S. House of Representatives;
14 and to the Honorable Felix P. Camacho, *I Maga'lahaen Guåhan*.

**DULY AND REGULARLY ADOPTED BY I MINA'BENTE NUEBI NA
LIHESLATURAN GUÅHAN ON THE 19TH DAY OF MARCH 2007.**



MARK FORBES
Speaker



RAY TENORIO
Senator and
Secretary of the Legislature