

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To provide compensation to certain residents of the island of Vieques, Puerto Rico, for the use of such island for military readiness, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. WICKER (for himself and Mrs. GILLIBRAND) introduced the following bill;  
which was read twice and referred to the Committee on

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**A BILL**

To provide compensation to certain residents of the island of Vieques, Puerto Rico, for the use of such island for military readiness, 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 “Vieques Recovery and  
5       Redevelopment Act”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

8               (1) Vieques is an island municipality of Puerto  
9       Rico, measuring approximately 21 miles long by 4

1 miles wide, and located approximately 8 miles east  
2 of the main island of Puerto Rico.

3 (2) Prior to Hurricane Maria, residents of  
4 Vieques were served by an urgent medical care facil-  
5 ity, the Susana Centeno Family Health Center, and  
6 residents had to travel off-island to obtain medical  
7 services, including most types of emergency care be-  
8 cause the facility did not have the basic use of x-ray  
9 machines, CT machines, EKG machines,  
10 ultrasounds, or PET scans.

11 (3) The predominant means of transporting  
12 passengers and goods between Vieques and the main  
13 island of Puerto Rico is by ferry boat service, and  
14 over the years, the efficiency of this service has fre-  
15 quently been disrupted, unreliable, and difficult for  
16 cancer patients to endure to receive treatment. Each  
17 trip to Ceiba, Puerto Rico, for the cancer patient is  
18 an additional out-of-pocket expense ranging from  
19 \$120 to \$200.

20 (4) The United States Military maintained a  
21 presence on the eastern and western portions of  
22 Vieques for close to 60 years, and used parts of the  
23 island as a training range during those years, drop-  
24 ping over 80 million tons of ordnance and other

1       weaponry available to the United States military  
2       since World War II.

3           (5) The unintended, unknown, and unavoidable  
4       consequences of these exercises were to expose  
5       Americans living on the islands to the residue of  
6       that weaponry which includes heavy metals and  
7       many other chemicals now known to harm human  
8       health.

9           (6) According to Government and independent  
10      documentation, the island of Vieques has high levels  
11      of heavy metals and has been exposed to chemical  
12      weapons and toxic chemicals. Since the military ac-  
13      tivity in Vieques, island residents have suffered from  
14      the health impacts from long-term exposure to envi-  
15      ronmental contamination as a result of 62 years of  
16      military operations, and have experienced higher  
17      rates of certain diseases among residents, including  
18      cancer, cirrhosis, hypertension, diabetes, heavy metal  
19      diseases, along with many unnamed and  
20      uncategorized illnesses. These toxic residues have  
21      caused the American residents of Vieques to develop  
22      illnesses due to ongoing exposure.

23          (7) In 2017, Vieques was hit by Hurricane  
24      Maria, an unusually destructive storm that dev-  
25      astated Puerto Rico and intensified the existing hu-

1       manitarian crisis on the island by destroying existing  
2       medical facilities.

3           (8) The medical systems in place prior to Hur-  
4       ricane Maria were unable to properly handle the  
5       health crisis that existed due to the toxic residue left  
6       on the island by the military's activities.

7           (9) After Maria, the medical facility was closed  
8       due to damage and continues to be unable to per-  
9       form even the few basic services that it did provide.  
10       Vieques needs a medical facility that can treat and  
11       address the critical and urgent need to get life-sav-  
12       ing medical services to its residents. Due to legal re-  
13       strictions, the Federal Emergency Management  
14       Agency (in this Act referred to as "FEMA") is un-  
15       able to provide a hospital where its capabilities ex-  
16       ceed the abilities of the facility that existed prior to  
17       Maria; therefore Vieques needs assistance to build a  
18       facility to manage the vast health needs of its resi-  
19       dents.

20           (10) Every American has benefitted from the  
21       sacrifices of those Americans who have lived and are  
22       living on Vieques and it is our intent to acknowledge  
23       that sacrifice and to treat those Americans with the  
24       same respect and appreciation that other Americans  
25       enjoy.

1           (11) In 2012, the residents of Vieques were de-  
2       nied the ability to address their needs in Court due  
3       to sovereign immunity, *Sanchez v. United States*,  
4       No. 3:09-cv-01260-DRD (D.P.R.). However, the  
5       United States Court of Appeals for the First Circuit  
6       referred the issue to Congress and urged it to ad-  
7       dress the humanitarian crisis. This bill attempts to  
8       satisfy that request such that Americans living on  
9       Vieques have a remedy for the suffering they have  
10      endured.

11 **SEC. 3. SETTLEMENT OF CLAIMS AGAINST THE UNITED**  
12 **STATES FOR CERTAIN RESIDENTS OF THE IS-**  
13 **LAND OF VIEQUES, PUERTO RICO.**

14       (a) IN GENERAL.—An individual claimant who has  
15      resided on the island of Vieques, Puerto Rico, for not less  
16      than 5 years before the date of enactment of this Act and  
17      files a claim for compensation under this section with the  
18      Special Master, appointed pursuant to subsection (c), shall  
19      be awarded monetary compensation as described in sub-  
20      section (b) if—

21           (1) the Special Master determines that the  
22      claimant is or was a resident or an immediate heir  
23      (as determined by the laws of Puerto Rico) of a de-  
24      ceased claimant on the island of Vieques, Puerto  
25      Rico, during or after the United States Government

1       used the island of Vieques, Puerto Rico, for military  
2       readiness;

3           (2) the claimant previously filed a lawsuit or an  
4       administrative claim, or files a claim not later than  
5       120 days after the date of the enactment of this Act  
6       against the United States Government for personal  
7       injury, including illness or death arising from use by  
8       the United States Government of the island of  
9       Vieques for military readiness; and

10          (3) the claimant submits to the Special Master  
11       written medical documentation that indicates that it  
12       is more likely than not the claimant contracted a  
13       chronic, life-threatening, or physical disease or ill-  
14       ness limited to cancer, hypertension, cirrhosis, kid-  
15       ney disease, diabetes, or a heavy metal poisoning as  
16       a result the United States Government used the is-  
17       land of Vieques, Puerto Rico, for military readiness.

18       (b) AMOUNTS OF AWARD.—

19           (1) IN GENERAL.—A claimant who meets the  
20       requirements of subsection (a) shall be awarded  
21       compensation as follows:

22                   (A) \$50,000 for 1 disease described in sub-  
23                   section (a)(3).

24                   (B) \$80,000 for 2 diseases described in  
25                   subsection (a)(3).

1 (C) \$110,000 for 3 or more diseases de-  
2 scribed in subsection (a)(3).

3 (2) INCREASE IN AWARD.—In the case that an  
4 individual receiving an award under paragraph (1)  
5 of this subsection contracts another disease under  
6 subsection (a)(3) and files a new claim with the Spe-  
7 cial Master for an additional award not later than  
8 10 years after the date of the enactment of this Act,  
9 the Special Master may award the individual an  
10 amount that is equal to the difference between—

11 (A) the amount that the individual would  
12 have been eligible to receive had the disease  
13 been contracted before the individual filed an  
14 initial claim under subsection (a); and

15 (B) the amount received by the individual  
16 pursuant to paragraph (1).

17 (3) DECEASED CLAIMANTS.—In the case of an  
18 individual who dies before making a claim under this  
19 section or a claimant who dies before receiving an  
20 award under this section, any immediate heir to the  
21 individual or claimant, as determined by the laws of  
22 Puerto Rico, shall be eligible for one of the following  
23 awards:

24 (A) Compensation in accordance with  
25 paragraph (1), divided among any such heir.

1 (B) Compensation based on the age of the  
2 deceased if the claimant shows that it is more  
3 likely than not that the United States Military  
4 activity caused the death of the individual as  
5 follows:

6 (i) In the case of an individual or  
7 claimant who dies before attaining 20  
8 years of age, \$110,000, divided among any  
9 such heir.

10 (ii) In the case of an individual or  
11 claimant who dies before attaining 40  
12 years of age, \$80,000, divided among any  
13 such heir.

14 (iii) In the case of an individual or  
15 claimant who dies before attaining 60  
16 years of age, \$50,000, divided among any  
17 such heir.

18 (c) APPOINTMENT OF SPECIAL MASTER.—

19 (1) IN GENERAL.—The Attorney General shall  
20 appoint a Special Master not later than 90 days  
21 after the date of the enactment of this Act to con-  
22 sider claims by individuals and the municipality.

23 (2) QUALIFICATIONS.—The Attorney General  
24 shall consider the following in choosing the Special  
25 Master:



1 (A) The individual's experience in the proc-  
2 essing of victims' claims in relation to foreign  
3 or domestic governments.

4 (B) The individual's balance of experience  
5 in representing the interests of the United  
6 States and individual claimants.

7 (C) The individual's experience in matters  
8 of national security.

9 (D) The individual's demonstrated abilities  
10 in investigation and fact findings in complex  
11 factual matters.

12 (E) Any experience the individual has had  
13 advising the United States Government.

14 (d) AWARD AMOUNTS RELATED TO CLAIMS BY THE  
15 MUNICIPALITY OF VIEQUES.—

16 (1) AWARD.—The Special Master, in exchange  
17 for its administrative claims, shall provide the fol-  
18 lowing as compensation to the Municipality of  
19 Vieques:

20 (A) STAFF.—The Special Master shall pro-  
21 vide medical staff, and other resources nec-  
22 essary to build and operate a level three trauma  
23 center (in this section, referred to as “medical  
24 facility”) with a cancer center and renal dialysis  
25 unit and its equipment. The medical facility

1 shall be able to treat life-threatening, chronic,  
2 heavy metal, and physical and mental diseases.  
3 The medical facility shall be able to provide  
4 basic x-ray, EKG, internal medicine expertise,  
5 medical coordination personnel and case man-  
6 agers, ultrasound, and resources necessary to  
7 screen claimants described in subsection (a)  
8 who are receiving treatment for the diseases or  
9 illnesses described in paragraph (3) of that sub-  
10 section for cancer and the other prevailing  
11 health problems.

12 (B) OPERATIONS.—The Special Master  
13 shall fund the operations of the medical facility  
14 to provide medical care for pediatric and adult  
15 patients who reside on the island of Vieques, al-  
16 lowing the patients to be referred for tertiary  
17 and quaternary health care facilities when nec-  
18 essary, and providing the transportation and  
19 medical costs when traveling off the island of  
20 Vieques.

21 (C) INTERIM SERVICES.—Before the med-  
22 ical facility on the island of Vieques is oper-  
23 ational, the Special Master shall provide to  
24 claimants described in subsection (a) who are

1 receiving treatment for the diseases or illnesses  
2 described in paragraph (3) of that subsection—

3 (i) urgent health care air transport to  
4 hospitals on the mainland of Puerto Rico  
5 from the island of Vieques;

6 (ii) medical coordination personnel  
7 and case managers;

8 (iii) telemedicine communication abili-  
9 ties; and

10 (iv) any other services that are nec-  
11 essary to alleviate the health crisis on the  
12 island of Vieques.

13 (D) SCREENING.—The Special Master  
14 shall make available, at no cost to the patient,  
15 medical screening for cancer, cirrhosis, diabetes,  
16 and heavy metal contamination on the island of  
17 Vieques.

18 (E) ACADEMIC PARTNER.—The Special  
19 Master shall appoint an academic partner, with  
20 appropriate experience and an established rela-  
21 tionship with the Municipality of Vieques, that  
22 shall—

23 (i) lead a research and outreach en-  
24 deavor on behalf of the Municipality of  
25 Vieques;

1                   (ii) select the appropriate scientific ex-  
2                   pertise and administer defined studies,  
3                   conducting testing and evaluation of the  
4                   soils, seas, plant and animal food sources,  
5                   and the health of residents; and

6                   (iii) determine and implement the  
7                   most efficient and effective way to reduce  
8                   the environmental toxins to a level suffi-  
9                   cient to return the soils, seas, food sources,  
10                  and health circumstances to a level that re-  
11                  duces the diseases on the island of Vieques  
12                  to the average in the United States.

13               (F) DUTIES.—The Special Master shall  
14               provide amounts necessary for the academic  
15               partner and medical coordinator to carry out  
16               the duties described in subparagraphs (A)  
17               through (D).

18               (G) PROCUREMENT.—The Special Master  
19               shall provide amounts necessary to compensate  
20               the Municipality of Vieques for—

21                   (i) contractual procurement obliga-  
22                   tions and additional expenses incurred by  
23                   the municipality as a result of the enact-  
24                   ment of this section and settlement of its  
25                   claim; and

1 (ii) any other damages and costs to be  
2 incurred by the municipality, if the Special  
3 Master determines that it is necessary to  
4 carry out the purpose of this section.

5 (H) POWER SOURCE.—The Special Master  
6 shall determine the best source of producing  
7 independent power on the island of Vieques that  
8 is hurricane resilient and can effectively sustain  
9 the needs of the island and shall authorize such  
10 construction as an award to the Municipality of  
11 Vieques.

12 (2) SOURCE.—

13 (A) IN GENERAL.—Except as provided in  
14 subparagraph (B), amounts awarded under this  
15 Act shall be made from amounts appropriated  
16 under section 1304 of title 31, United States  
17 Code, commonly known as the “Judgment  
18 Fund”, as if claims were adjudicated by a  
19 United States District Court under section  
20 1346(b) of title 28, United States Code.

21 (B) LIMITATION.—Total amounts awarded  
22 under this Act shall not exceed \$1,000,000,000.

23 (3) DETERMINATION AND PAYMENT OF  
24 CLAIMS.—

1           (A) ESTABLISHMENT OF FILING PROCE-  
2           DURES.—The Attorney General shall establish  
3           procedures whereby individuals and the munici-  
4           pality may submit claims for payments under  
5           this section to the Special Master.

6           (B) DETERMINATION OF CLAIMS.—The  
7           Special Master shall, in accordance with this  
8           subsection, determine whether each claim meets  
9           the requirements of this section. Claims filed by  
10          residents of the island of Vieques that have  
11          been disposed of by a court under chapter 171  
12          of title 28, United States Code, shall be treated  
13          as if such claims are currently filed.

14          (e) ACTION ON CLAIMS.—The Special Master shall  
15          make a determination on any claim filed under the proce-  
16          dures established under this section not later than 150  
17          days after the date on which the claim is filed.

18          (f) PAYMENT IN FULL SETTLEMENT OF CLAIMS BY  
19          INDIVIDUALS AND THE MUNICIPALITY OF VIEQUES  
20          AGAINST THE UNITED STATES.—The acceptance by an  
21          individual or the Municipality of Vieques of a payment of  
22          an award under this section shall—

23               (1) be final and conclusive;

1           (2) be deemed to be in full satisfaction of all  
2       claims under chapter 171 of title 28, United States  
3       Code; and

4           (3) constitute a complete release by the indi-  
5       vidual or municipality of such claim against the  
6       United States and against any employee of the  
7       United States acting in the scope of employment  
8       who is involved in the matter giving rise to the  
9       claim.

10       (g) CERTIFICATION OF TREATMENT OF PAYMENTS  
11   UNDER OTHER LAWS.—Amounts paid to an individual  
12   under this section—

13           (1) shall be treated for purposes of the laws of  
14       the United States as damages for human suffering;  
15       and

16           (2) may not be included as income or resources  
17       for purposes of determining eligibility to receive ben-  
18       efits described in section 3803(c)(2)(C) of title 31,  
19       United States Code, or the amount of such benefits.

20       (h) LIMITATION ON CLAIMS.—A claim to which this  
21   section applies shall be barred unless the claim is filed  
22   within 15 years after the date of the enactment of this  
23   Act.

24       (i) ATTORNEY'S FEES.—Notwithstanding any con-  
25   tract, a representative of an individual may not receive,

1 for services rendered in connection with a claim of the in-  
2 dividual under this Act, more than 20 percent of a pay-  
3 ment made under this Act.