

117TH CONGRESS
1ST SESSION

H. R. 1317

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2021

Ms. VELÁZQUEZ (for herself and Miss GONZÁLEZ-COLÓN) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 of 2021”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Vieques is an island municipality of Puerto
2 Rico, measuring approximately 21 miles long by 4
3 miles wide, and located approximately 8 miles east
4 of the main island of Puerto Rico.

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

13 (3) The predominant means of transporting
14 passengers and goods between Vieques and the main
15 island of Puerto Rico is by ferry boat service, and
16 over the years, the efficiency of this service has fre-
17 quently been disrupted, unreliable, and difficult for
18 cancer patients to endure to receive treatment. Each
19 trip to Ceiba, Puerto Rico, for the cancer patient is
20 an additional out-of-pocket expense ranging from
21 \$120 to \$200.

22 (4) The United States Military maintained a
23 presence on the eastern and western portions of
24 Vieques for close to 60 years, and used parts of the
25 island as a training range during those years, drop-

1 ping over 80 million tons of ordnance and other
2 weaponry available to the United States military
3 since World War II.

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

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

24 (7) In 2017, Vieques was hit by Hurricane
25 Maria, an unusually destructive storm that dev-

1 astated Puerto Rico and intensified the existing hu-
2 manitarian crisis on the island by destroying existing
3 medical facilities.

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

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

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

1 same respect and appreciation that other Americans
2 enjoy.

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

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

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

22 (1) the Special Master determines that the
23 claimant is or was a resident, the child of a resident,
24 or an immediate heir (as determined by the laws of
25 Puerto Rico) of a deceased claimant on the island of

1 Vieques, Puerto Rico, during or after the United
2 States Government used the island of Vieques, Puer-
3 to Rico, for military readiness;

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

11 (3) the claimant submits to the Special Master
12 written medical documentation that indicates the
13 claimant contracted a chronic, life threatening, or
14 physical disease or illness limited to cancer, hyper-
15 tension, cirrhosis, kidney disease, diabetes, or a
16 heavy metal poisoning during or after the United
17 States Government used the island of Vieques, Puer-
18 to Rico, for military readiness.

19 (b) AMOUNTS OF AWARD.—

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

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

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

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

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

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

17 (B) the amount received by the individual
18 pursuant to paragraph (1).

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

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

3 (B) Compensation based on the age of the
4 deceased as follows:

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

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

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

17 (c) APPOINTMENT OF SPECIAL MASTER.—

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

22 (2) QUALIFICATIONS.—The Attorney General
23 shall consider the following in choosing the Special
24 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) ADMINISTRATIVE EXPERTISE.—The
22 Special Master shall ensure that the Adminis-
23 trator of FEMA provides all administrative and
24 technical expertise and oversight in the bidding
25 and construction of the facility but the design

1 and abilities of the hospital shall be determined
2 by the Special Master considering the medical
3 and research needs of the residents of the is-
4 land of Vieques. All costs shall be part of the
5 municipality's compensation.

6 (D) INTERIM SERVICES.—Before the med-
7 ical facility on the island of Vieques is oper-
8 ational, the Special Master shall provide to
9 claimants described in subsection (a) who are
10 receiving treatment for the diseases or illnesses
11 described in paragraph (3) of that subsection—

12 (i) urgent health care air transport to
13 hospitals on the mainland of Puerto Rico
14 from the island of Vieques;

15 (ii) medical coordination personnel
16 and case managers;

17 (iii) telemedicine communication abili-
18 ties; and

19 (iv) any other services that are nec-
20 essary to alleviate the health crisis on the
21 island of Vieques.

22 (E) SCREENING.—The Special Master
23 shall make available, at no cost to the patient,
24 medical screening for cancer, cirrhosis, diabetes,

1 and heavy metal contamination on the island of
2 Vieques.

3 (F) ACADEMIC PARTNER.—The Special
4 Master shall appoint an academic partner, with
5 appropriate experience and an established rela-
6 tionship with the Municipality of Vieques, that
7 shall—

8 (i) lead a research and outreach en-
9 deavor on behalf of the Municipality of
10 Vieques;

11 (ii) select the appropriate scientific ex-
12 pertise and administer defined studies,
13 conducting testing and evaluation of the
14 soils, seas, plant and animal food sources,
15 and the health of residents; and

16 (iii) determine and implement the
17 most efficient and effective way to reduce
18 the environmental toxins to a level suffi-
19 cient to return the soils, seas, food sources,
20 and health circumstances to a level that re-
21 duces the diseases on the island of Vieques
22 to the average in the United States.

23 (G) DUTIES.—The Special Master shall
24 provide amounts necessary for the academic
25 partner and medical coordinator to carry out

1 the duties described in subparagraphs (A)
2 through (D).

3 (H) PROCUREMENT.—The Special Master
4 shall provide amounts necessary to compensate
5 the Municipality of Vieques for—

6 (i) contractual procurement obliga-
7 tions and additional expenses incurred by
8 the municipality as a result of the enact-
9 ment of this section and settlement of its
10 claim; and

11 (ii) any other damages and costs to be
12 incurred by the municipality, if the Special
13 Master determines that it is necessary to
14 carry out the purpose of this section.

15 (I) POWER SOURCE.—The Special Master
16 shall determine the best source of producing
17 independent power on the island of Vieques that
18 is hurricane resilient and can effectively sustain
19 the needs of the island and shall authorize such
20 construction as an award to the Municipality of
21 Vieques.

22 (2) SOURCE.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), amounts awarded under this
25 Act shall be made from amounts appropriated

1 under section 1304 of title 31, United States
2 Code, commonly known as the “Judgment
3 Fund”, as if claims were adjudicated by a
4 United States District Court under section
5 1346(b) of title 28, United States Code.

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

8 (3) DETERMINATION AND PAYMENT OF
9 CLAIMS.—

10 (A) ESTABLISHMENT OF FILING PROCE-
11 DURES.—The Attorney General shall establish
12 procedures whereby individuals and the munici-
13 pality may submit claims for payments under
14 this section to the Special Master.

15 (B) DETERMINATION OF CLAIMS.—The
16 Special Master shall, in accordance with this
17 subsection, determine whether each claim meets
18 the requirements of this section. Claims filed by
19 residents of the island of Vieques that have
20 been disposed of by a court under chapter 171
21 of title 28, United States Code, shall be treated
22 as if such claims are currently filed.

23 (e) ACTION ON CLAIMS.—The Special Master shall
24 make a determination on any claim filed under the proce-

1 dures established under this section not later than 150
2 days after the date on which the claim is filed.

3 (f) PAYMENT IN FULL SETTLEMENT OF CLAIMS BY
4 INDIVIDUALS AND THE MUNICIPALITY OF VIEQUES
5 AGAINST THE UNITED STATES.—The acceptance by an
6 individual or the Municipality of Vieques of a payment of
7 an award under this section shall—

8 (1) be final and conclusive;

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

12 (3) constitute a complete release by the indi-
13 vidual or municipality of such claim against the
14 United States and against any employee of the
15 United States acting in the scope of employment
16 who is involved in the matter giving rise to the
17 claim.

18 (g) CERTIFICATION OF TREATMENT OF PAYMENTS
19 UNDER OTHER LAWS.—Amounts paid to an individual
20 under this section—

21 (1) shall be treated for purposes of the laws of
22 the United States as damages for human suffering;
23 and

24 (2) may not be included as income or resources
25 for purposes of determining eligibility to receive ben-

1 efits described in section 3803(c)(2)(C) of title 31,
2 United States Code, or the amount of such benefits.

3 (h) LIMITATION ON CLAIMS.—A claim to which this
4 section applies shall be barred unless the claim is filed
5 within 15 years after the date of the enactment of this
6 Act.

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