

## Calendar No. 538

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 2941****[Report No. 111–268]**

To provide supplemental ex gratia compensation to the Republic of the Marshall Islands for impacts of the nuclear testing program of the United States, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

JANUARY 20, 2010

Mr. BINGAMAN (for himself and Ms. MURKOWSKI) (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

AUGUST 5, 2010

Reported by Mr. BINGAMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

---

**A BILL**

To provide supplemental ex gratia compensation to the Republic of the Marshall Islands for impacts of the nuclear testing program of the United States, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Republic of the Mar-  
3 shall Islands Supplemental Nuclear Compensation Act of  
4 2010”.

5 **SEC. 2. CONTINUED MONITORING ON RUNIT ISLAND.**

6       Section 103(f)(1) of the Compact of Free Association  
7 Amendments Act of 2003 (48 U.S.C. 1921b(f)(1)) is  
8 amended—

9           (1) by striking “Notwithstanding” and insert-  
10 ing the following:

11               “(A) IN GENERAL.—Notwithstanding”;

12           and

13           (2) by adding at the end the following:

14               “(B) CONTINUED MONITORING ON RUNIT  
15 ISLAND.—

16               “(i) IN GENERAL.—Effective begin-  
17 ning January 1, 2010, the Secretary of  
18 Energy shall, as a part of the Marshall Is-  
19 lands program conducted under subpara-  
20 graph (A), periodically (but not less fre-  
21 quently than every 4 years) survey radio-  
22 logical conditions on Runit Island.

23               “(ii) REPORT.—The Secretary shall  
24 submit to the Committee on Energy and  
25 Natural Resources of the Senate, and the  
26 Committee on Natural Resources of the

1 House of Representatives, a report that de-  
 2 scribes the results of each survey con-  
 3 ducted under clause (i), including any sig-  
 4 nificant changes in conditions on Runit Is-  
 5 land.”.

6 **SEC. 3. CLARIFICATION OF ELIGIBILITY UNDER ENERGY**  
 7 **EMPLOYEES OCCUPATIONAL ILLNESS COM-**  
 8 **PENSATION PROGRAM ACT OF 2000.**

9 (a) DEFINITIONS FOR PROGRAM ADMINISTRATION.—  
 10 Section 3621 of the Energy Employees Occupational Ill-  
 11 ness Compensation Program Act of 2000 (42 U.S.C.  
 12 7384l) is amended by adding at the end the following:

13 “(18) The terms ‘covered employee’, ‘atomic  
 14 weapons employee’, and ‘Department of Energy con-  
 15 tractor employee’ (as defined in paragraphs (1), (3),  
 16 and (11), respectively) include a citizen of the Trust  
 17 Territory of the Pacific Islands who is otherwise cov-  
 18 ered by that paragraph.”.

19 (b) DEFINITION OF COVERED DOE CONTRACTOR  
 20 EMPLOYEE.—Section 3671(1) of the Energy Employees  
 21 Occupational Illness Compensation Program Act of 2000  
 22 (42 U.S.C. 7385s(1)) is amended by inserting before the  
 23 period at the end the following: “, including a citizen of  
 24 the Trust Territory of the Pacific Islands who is otherwise  
 25 covered by this paragraph”.

1       (c) COORDINATION OF BENEFITS WITH RESPECT TO  
 2 THE COMPACT OF FREE ASSOCIATION.—Subtitle E of the  
 3 Energy Employees Occupational Illness Compensation  
 4 Program Act of 2000 (42 U.S.C. 7385s et seq.) is amend-  
 5 ed by inserting after section 3682 (42 U.S.C. 7385s–11)  
 6 the following:

7       **“SEC. 3682A. COORDINATION OF BENEFITS WITH RESPECT**  
 8                               **TO THE COMPACT OF FREE ASSOCIATION.**

9       “(a) DEFINITION OF COMPACT OF FREE ASSOCIA-  
 10 TION.—In this section, the term ‘Compact of Free Asso-  
 11 ciation’ means—

12               “(1) the Compact of Free Association between  
 13 the Government of the United States of America  
 14 and the Governments of the Marshall Islands and  
 15 the Federated States of Micronesia (48 U.S.C. 1901  
 16 note); and

17               “(2) the Compact of Free Association between  
 18 the Government of the United States of America  
 19 and the Government of Palau (48 U.S.C. 1931  
 20 note);

21       “(b) COORDINATION.—Subject to subsection (c), an  
 22 individual who has been awarded compensation under this  
 23 subtitle, and who has also received compensation benefits  
 24 under the Compact of Free Association by reason of the  
 25 same covered illness, shall receive the compensation

1 awarded under this subtitle reduced by the amount of any  
 2 compensation benefits received under the Compact of Free  
 3 Association, other than medical benefits and benefits for  
 4 vocational rehabilitation that the individual received by  
 5 reason of the covered illness, after deducting the reason-  
 6 able costs (as determined by the Secretary) of obtaining  
 7 those benefits under the Compact of Free Association.

8 “(c) WAIVER.—The Secretary may waive the applica-  
 9 tion of subsection (b) if the Secretary determines that the  
 10 administrative costs and burdens of applying subsection  
 11 (b) to a particular case or class of cases justifies the waiv-  
 12 er.”.

13 **SEC. 4. FOUR ATOLL HEALTH CARE PROGRAM.**

14 Section 103(h) of the Compact of Free Association  
 15 Amendments Act of 2003 (48 U.S.C. 1921b(h)) is amend-  
 16 ed by adding at the end the following:

17 “(4) SUPPLEMENTAL HEALTH CARE FUND-  
 18 ING.—

19 “(A) IN GENERAL.—In addition to  
 20 amounts provided under section 211 of the  
 21 U.S.—RMI Compact (48 U.S.C. 1921 note), the  
 22 Secretary of the Interior shall annually use the  
 23 amounts made available under subparagraph  
 24 (B) to supplement health care in the commu-  
 25 nities affected by the nuclear testing program

of the United States, including capital and operational support of outer island primary healthcare facilities of the Ministry of Health of the Republic of the Marshall Islands in the communities of—

“(i) Enewetak Atoll;

“(ii) Kili (until the resettlement of Bikini);

“(iii) Majetto Island in Kwajalein Atoll (until the resettlement of Rongelap Atoll); and

“(iv) Utrik Atoll.

“(B) FUNDING.—As authorized by section 105(e), there is appropriated to the Secretary of the Interior, out of funds in the Treasury not otherwise appropriated, to carry out this paragraph \$2,000,000 for each of fiscal years 2012 through 2028, as adjusted for inflation in accordance with section 218 of the U.S.—FSM Compact and the U.S.—RMI Compact, to remain available until expended.”.

**SEC. 5. ASSESSMENT OF HEALTH CARE NEEDS OF THE MARSHALL ISLANDS.**

(a) IN GENERAL.—The Secretary of the Interior shall enter into an agreement with the National Academy of

1 Sciences under which the National Academy of Sciences  
 2 shall conduct an assessment of the health impacts of the  
 3 United States nuclear testing program conducted in the  
 4 Republic of the Marshall Islands on the residents of the  
 5 Republic of the Marshall Islands.

6 (b) ~~REPORT.~~—On completion of the assessment  
 7 under subsection (a), the National Academy of Sciences  
 8 shall submit to Congress, the Secretary, the Committee  
 9 on Energy and Natural Resources of the Senate, and the  
 10 Committee on Natural Resources of the House of Rep-  
 11 resentatives, a report on the results of the assessment.

12 (c) ~~AUTHORIZATION OF APPROPRIATIONS.~~—There  
 13 are authorized to be appropriated such sums as are nec-  
 14 essary to carry out this section.

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Republic of the Marshall*  
 17 *Islands Supplemental Nuclear Compensation Act of 2010”.*

18 **SEC. 2. CONTINUED MONITORING ON RUNIT ISLAND.**

19 *Section 103(f)(1) of the Compact of Free Association*  
 20 *Amendments Act of 2003 (48 U.S.C. 1921b(f)(1)) is amend-*  
 21 *ed—*

22 *(1) by striking “Notwithstanding” and inserting*  
 23 *the following:*

24 *“(A) IN GENERAL.—Notwithstanding”; and*

25 *(2) by adding at the end the following:*

1                   “(B) *CONTINUED MONITORING ON RUNIT IS-*  
 2                   *LAND.—*

3                   “(i) *CACTUS CRATER CONTAINMENT*  
 4                   *AND GROUNDWATER MONITORING.—Effective*  
 5                   *beginning January 1, 2008, the Secretary of*  
 6                   *Energy shall, as a part of the Marshall Is-*  
 7                   *lands program conducted under subpara-*  
 8                   *graph (A), periodically (but not less fre-*  
 9                   *quently than every 4 years) conduct—*

10                   “(I) *a visual study of the concrete*  
 11                   *exterior of the Cactus Crater contain-*  
 12                   *ment structure on Runit Island; and*

13                   “(II) *a radiochemical analysis of*  
 14                   *the groundwater surrounding and in*  
 15                   *the Cactus Crater containment struc-*  
 16                   *ture on Runit Island.*

17                   “(ii) *REPORT.—The Secretary shall*  
 18                   *submit to the Committee on Energy and*  
 19                   *Natural Resources of the Senate, and the*  
 20                   *Committee on Natural Resources of the*  
 21                   *House of Representatives, a report that con-*  
 22                   *tains—*

23                   “(I) *a description of—*



1                   “(aa) the results of each vis-  
2                   ual survey conducted under clause  
3                   (i)(I); and

4                   “(bb) the results of the  
5                   radiochemical analysis conducted  
6                   under clause (i)(II); and

7                   “(II) a determination on whether  
8                   the surveys and analyses indicate any  
9                   significant change in the health risks  
10                  to the people of Enewetak from the con-  
11                  taminants within the Cactus Crater  
12                  containment structure.

13                  “(iii) *FUNDING FOR GROUNDWATER*  
14                  *MONITORING.—The Secretary of the Interior*  
15                  *shall make available to the Department of*  
16                  *Energy, Marshall Islands Program, from*  
17                  *funds available for the Technical Assistance*  
18                  *Program of the Office of Insular Affairs, the*  
19                  *amounts necessary to conduct the*  
20                  *radiochemical analysis of groundwater*  
21                  *under clause(i)(II).”.*

1 **SEC. 3. CLARIFICATION OF ELIGIBILITY UNDER ENERGY**  
 2 **EMPLOYEES OCCUPATIONAL ILLNESS COM-**  
 3 **PENSATION PROGRAM ACT OF 2000.**

4 (a) *DEFINITIONS FOR PROGRAM ADMINISTRATION.*—  
 5 *Section 3621 of the Energy Employees Occupational Illness*  
 6 *Compensation Program Act of 2000 (42 U.S.C. 7384l) is*  
 7 *amended by adding at the end the following:*

8 “(18) The terms ‘covered employee’, ‘atomic  
 9 weapons employee’, and ‘Department of Energy con-  
 10 tractor employee’ (as defined in paragraphs (1), (3),  
 11 and (11), respectively) include a citizen or national  
 12 of the Republic of the Marshall Islands or the Fed-  
 13 erated States of Micronesia who is otherwise covered  
 14 by that paragraph.”.

15 (b) *DEFINITION OF COVERED DOE CONTRACTOR EM-*  
 16 *PLOYEE.*—*Section 3671(1) of the Energy Employees Occu-*  
 17 *pational Illness Compensation Program Act of 2000 (42*  
 18 *U.S.C. 7385s(1)) is amended by inserting before the period*  
 19 *at the end the following: “, including a citizen or national*  
 20 *of the Republic of the Marshall Islands or the Federated*  
 21 *States of Micronesia who is otherwise covered by this para-*  
 22 *graph”.*

23 (c) *OFFSET OF BENEFITS WITH RESPECT TO THE*  
 24 *COMPACT OF FREE ASSOCIATION.*—*Subtitle C of the En-*  
 25 *ergy Employees Occupational Illness Compensation Pro-*  
 26 *gram Act of 2000 (42 U.S.C. 7385 et seq.) is amended by*

1 *inserting after section 3653 (42 U.S.C. 7385j-2) the fol-*  
 2 *lowing:*

3 **“SEC. 3654. OFFSET OF BENEFITS WITH RESPECT TO THE**  
 4 **COMPACT OF FREE ASSOCIATION.**

5 *“An individual who has been awarded compensation*  
 6 *under this title, and who has also received compensation*  
 7 *benefits under the Compact of Free Association between the*  
 8 *United States and the Republic of the Marshall Islands (48*  
 9 *U.S.C. 1681 et seq.) (referred to in this section as the ‘Com-*  
 10 *pact of Free Association’), by reason of the same illness,*  
 11 *shall receive the compensation awarded under this title re-*  
 12 *duced by the amount of any compensation benefits received*  
 13 *under the Compact of Free Association, other than medical*  
 14 *benefits and benefits for vocational rehabilitation that the*  
 15 *individual received by reason of the illness, after deducting*  
 16 *the reasonable costs (as determined by the Secretary) of ob-*  
 17 *taining those benefits under the Compact of Free Associa-*  
 18 *tion.”.*

19 **SEC. 4. SUPPLEMENTAL HEALTH CARE GRANT.**

20 *Section 103(h) of the Compact of Free Association*  
 21 *Amendments Act of 2003 (48 U.S.C. 1921b(h)) is amended*  
 22 *by adding at the end the following:*

23 *“(4) SUPPLEMENTAL HEALTH CARE GRANT.—*

24 *“(A) IN GENERAL.—In addition to amounts*  
 25 *provided under section 211 of the U.S.–RMI*

1       *Compact (48 U.S.C. 1921 note), the Secretary of*  
 2       *the Interior shall provide to the Republic of the*  
 3       *Marshall Islands an annual supplemental health*  
 4       *care grant in the amount made available under*  
 5       *subparagraph (D)—*

6               “(i)(I) *to provide enhanced primary*  
 7               *health care, with an emphasis on providing*  
 8               *regular screenings for radiogenic illnesses*  
 9               *by upgrading existing services or by pro-*  
 10              *viding quarterly medical field team visits,*  
 11              *as appropriate, in each of Enewetak, Bi-*  
 12              *kini, Rongelap, Utrik, Ailuk, Mejit, Likiep,*  
 13              *Wotho, Wotje, and Ujelang Atolls, which*  
 14              *were affected by the nuclear testing program*  
 15              *of the United States; and*

16              “(II) *to enhance the capabilities of the*  
 17              *Marshall Islands to provide secondary treat-*  
 18              *ment for radiogenic illness; and*

19              “(ii) *to construct and operate a whole-*  
 20              *body counting facility on Utrik Atoll.*

21              “(B)   *CONDITIONS   ON   HEALTH   CARE*  
 22              *GRANTS.—To ensure the effective use of grants*  
 23              *funds under clause (i) of subparagraph (A), the*  
 24              *Secretary of the Interior, after consultation with*  
 25              *the Republic of the Marshall Islands, may estab-*

1        *lish additional conditions on the provision of*  
 2        *grants under that clause.*

3                “(C) *MEMORANDUM OF AGREEMENT.—To*  
 4        *meet the objectives of clause (ii) of subparagraph*  
 5        *(A), the Secretary of the Interior, the Secretary*  
 6        *of Energy, and the Government of the Republic*  
 7        *of the Marshall Islands shall enter into a memo-*  
 8        *randum of agreement setting forth the terms,*  
 9        *conditions, and respective responsibilities of the*  
 10        *parties to the memorandum of agreement in car-*  
 11        *rying out that clause.*

12                “(D) *FUNDING.—As authorized by section*  
 13        *105(c), there is appropriated to the Secretary of*  
 14        *the Interior, out of funds in the Treasury not*  
 15        *otherwise appropriated, to carry out this para-*  
 16        *graph \$4,500,000 for each of fiscal years 2009*  
 17        *through 2023, as adjusted for inflation in ac-*  
 18        *cordance with section 218 of the U.S.–RMI Com-*  
 19        *pact, to remain available until expended.”.*

20    **SEC. 5. ASSESSMENT OF HEALTH CARE NEEDS OF THE MAR-**  
 21        **SHALL ISLANDS.**

22                (a) *IN GENERAL.—The Secretary of the Interior shall*  
 23        *enter into an agreement with the National Academy of*  
 24        *Sciences under which the National Academy of Sciences*  
 25        *shall conduct an assessment of the health impacts of the*

1 *United States nuclear testing program conducted in the Re-*  
2 *public of the Marshall Islands on the residents of the Repub-*  
3 *lic of the Marshall Islands.*

4       **(b) REPORT.**—*On completion of the assessment under*  
5 *subsection (a), the National Academy of Sciences shall sub-*  
6 *mit to Congress, the Secretary, the Committee on Energy*  
7 *and Natural Resources of the Senate, and the Committee*  
8 *on Natural Resources of the House of Representatives, a re-*  
9 *port on the results of the assessment.*

10       **(c) AUTHORIZATION OF APPROPRIATIONS.**—*There are*  
11 *authorized to be appropriated such sums as are necessary*  
12 *to carry out this section.*



Calendar No. 538

11<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 2941**

[Report No. 111-268]

**A BILL**

To provide supplemental ex gratia compensation to the Republic of the Marshall Islands for impacts of the nuclear testing program of the United States, and for other purposes.

August 5, 2010

Reported with an amendment