

116TH CONGRESS
1ST SESSION

S. 546

To extend authorization for the September 11th Victim Compensation Fund of 2001 through fiscal year 2090, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2019

Mrs. GILLIBRAND (for herself, Mr. GARDNER, Ms. MURKOWSKI, Mrs. SHAHEEN, Mr. WHITEHOUSE, Mr. MARKEY, Mr. BOOKER, Mr. SCHUMER, Mr. SANDERS, Ms. BALDWIN, Mr. VAN HOLLEN, Mr. MENENDEZ, Mr. BLUMENTHAL, Mr. MERKLEY, Ms. DUCKWORTH, Mr. BENNET, Ms. WARREN, Mr. CASEY, Ms. KLOBUCHAR, Mr. MURPHY, Mr. COONS, and Ms. HARRIS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To extend authorization for the September 11th Victim Compensation Fund of 2001 through fiscal year 2090, 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 “Never Forget the He-
5 roes: Permanent Authorization of the September 11th Vic-
6 tim Compensation Fund Act”.

1 **SEC. 2. SEPTEMBER 11TH VICTIM COMPENSATION FUND OF**
2 **2001.**

3 (a) AUTHORIZATION AND FUNDING.—Section 410 of
4 the Air Transportation Safety and System Stabilization
5 Act (49 U.S.C. 40101 note) is amended—

6 (1) in subsection (c), by striking
7 “\$4,600,000,000” and all that follows through “ex-
8 pended” and inserting “such sums as may be nec-
9 essary for fiscal year 2019 and each fiscal year
10 thereafter through fiscal year 2090, to remain avail-
11 able through such fiscal year”; and

12 (2) in subsection (e), by striking “Upon comple-
13 tion of all payments under this title” and inserting
14 “On October 1, 2090”.

15 (b) EXTENDING FILING DEADLINE.—Section
16 405(a)(3)(B) of the Air Transportation Safety and Sys-
17 tem Stabilization Act (49 U.S.C. 40101 note) is amended
18 by striking “the date that is 5 years after the date of en-
19 actment of the James Zadroga 9/11 Victim Compensation
20 Fund Reauthorization Act” and inserting “October 1,
21 2089”.

22 (c) COMPENSATION REDUCED BY SPECIAL MASTER
23 DUE TO LACK OF FUNDING.—Section 406(d)(2) of the
24 Air Transportation Safety and System Stabilization Act
25 (49 U.S.C. 40101 note) is amended—

(1) in subparagraph (C)(ii), by striking “each year thereafter” and inserting “not less than once every 5 years thereafter”; and

(2) by adding at the end the following:

“(D) COMPENSATION REDUCED BY SPECIAL MASTER DUE TO INSUFFICIENT FUNDING.—

“(i) IN GENERAL.—With respect to any claim in Group B as described in section 405(a)(3)(C)(iii) for which, prior to the date of enactment of this subparagraph, the Special Master had advised the claimant that the amount of compensation for such claim has been reduced on the basis of insufficient funding, the Special Master shall, in the first fiscal year following such date of enactment that sufficient funding becomes available under this title, pay to the claimant an amount that is, as determined by the Special Master, equal to the difference between—

“(I) the amount the claimant would have been paid under this title if sufficient funding was available to the Special Master at the time the

1 Special Master determined the
2 amount due the claimant under this
3 title; and

4 “(II) the amount the claimant
5 was paid under this title.

6 “(ii) DEFINITIONS.—For purposes of
7 this subparagraph:

8 “(I) INSUFFICIENT FUNDING.—
9 The term ‘insufficient funding’ means
10 funding—

11 “(aa) that is available to the
12 Special Master under section
13 410(c), as in effect on the day
14 before the date of enactment of
15 this subparagraph, for purposes
16 of compensating claims in Group
17 B as described in section
18 405(a)(3)(C)(iii); and

19 “(bb) that the Special Mas-
20 ter determines is insufficient for
21 purposes of compensating all
22 such claims and complying with
23 subparagraph (A).

1 “(II) SUFFICIENT FUNDING.—

2 The term ‘sufficient funding’ means
3 funding—

4 “(aa) made available to the
5 Special Master for purposes of
6 compensating claims in Group B
7 as described in section
8 405(a)(3)(C)(iii) through an Act
9 of Congress that is enacted after
10 the date on which the amount of
11 the claim described in clause (i)
12 has been reduced; and

13 “(bb) that the Special Mas-
14 ter determines is sufficient for
15 purposes of compensating all
16 claims in such Group B.”.

17 (d) LIMITATIONS ON NONECONOMIC LOSS.—Section
18 405(b)(7)(A) of the Air Transportation Safety and System
19 Stabilization Act (49 U.S.C. 40101 note) is amended—

20 (1) by redesignating clauses (i) and (ii) as sub-
21 clauses (I) and (II) respectively, and adjusting the
22 margins accordingly;

23 (2) by striking “With respect to” and inserting
24 the following:

1 “(i) IN GENERAL.—Except as pro-
 2 vided in clause (ii), with respect to”; and
 3 (3) by adding at the end the following:

4 “(ii) EXCEPTION.—The Special Mas-
 5 ter may exceed the applicable limitation
 6 under clause (i) for a claim in Group B as
 7 described in subsection (a)(3)(C)(iii) if the
 8 Special Master determines that the pain
 9 and suffering of the claimant is so exces-
 10 sive as to render the amount of the appli-
 11 cable limitation under clause (i) insuffi-
 12 ciently compensatory.”.

13 (e) ADJUSTMENT OF GROSS INCOME LIMITATION.—
 14 Section 405(b)(7)(B)(ii) of the Air Transportation Safety
 15 and System Stabilization Act (40 U.S.C. 40101 note) is
 16 amended—

17 (1) by striking “In considering” and inserting
 18 the following:

19 “(I) IN GENERAL.—Subject to
 20 subclause (II), in considering”; and

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

22 “(II) ADJUSTMENT.—The Spe-
 23 cial Master shall adjust the amount of
 24 the limitation under subclause (I) not
 25 more frequently than once every 5

1 years to reflect the percentage by
2 which the Consumer Price Index for
3 All Urban Consumers published by
4 the Department of Labor for the
5 month of October immediately pre-
6 ceding the date of adjustment exceeds
7 the Consumer Price Index for All
8 Urban Consumers published by the
9 Department of Labor for the month
10 of October that immediately precedes
11 the date that is 5 years before the
12 date of adjustment.”.

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