

## EMBASSY EMPLOYEE COMPENSATION ACT

MAY 20, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

### R E P O R T

[To accompany H.R. 3375]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3375) to provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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#### PURPOSE AND SUMMARY

H.R. 3375, the “Embassy Employee Compensation Act” directs the Attorney General to provide compensation for those American citizens who were victims of the bombings of the United States Embassy in Nairobi, Kenya, and of the United States Embassy in Dar es Salaam, Tanzania, on August 7, 1998, through the Special Mas-

ter appointed to administer the September 11th Victim Compensation Fund of 2001. The bill would authorize payments for physical harm, economic losses and noneconomic losses, such as physical and emotional pain and loss of enjoyment of life, for individuals present at either of the bombings or their immediate aftermath. These are the same standards for payment that are applied to individuals receiving payment under the September 11th Fund. In the case of a deceased individual, the bill would allow relatives of that individual to be compensated.

If a claim is filed under the act, all rights are waived to participate in civil suits in any Federal or State court for damages sustained in the bombings with the exception of suits that involve recovery of “collateral source” obligations such as life insurance, pension funds, death benefit programs and payments by Federal, State and local governments. Punitive damages may not be awarded under the act. Additionally, any award from the fund will be reduced by any other amount of compensation the claimant has received or is entitled to receive as a result of the bombings.

#### BACKGROUND AND NEED FOR THE LEGISLATION

On September 22, 2001, the “September 11th Victim Compensation Fund of 2001,” was signed into law.<sup>1</sup> That fund created a compensation program, administered by the Attorney General through a Special Master, for any individual who was injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001.

On August 7, 1998, agents of Osama bin Laden orchestrated near simultaneous vehicular bombings of the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania. These terrorist incidents cost the lives of over 220 persons and wounded more than 4,000 others. Twelve American U.S. Government employees and family members were among those killed.

As a matter of fairness and equity, the bombing victims at the U.S. embassies should have access to the same compensation system as those killed and injured during the September 11th attacks on U.S. targets by agents of Osama bin Laden.

#### HEARINGS

No hearings were held on H.R. 3375.

#### COMMITTEE CONSIDERATION

On April 24, 2002, the Committee met in open session and ordered favorably reported the bill H.R. 3375 without amendment by voice vote, a quorum being present.

#### VOTE OF THE COMMITTEE

There were no recorded votes on H.R. 3375.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings

<sup>1</sup> Pub. L. No. 107-42.

and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### PERFORMANCE GOALS AND OBJECTIVES

H.R. 3375 will provide the victims of the bombing of the U.S. embassies access to the same compensation system that is available to those killed and injured during the September 11th attacks on U.S. targets by agents of Osama bin Laden.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is applicable because this legislation provides new budgetary authority.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3375, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 20, 2002.*

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3375, the Embassy Employee Compensation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker, who can be reached at 226-2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.  
Ranking Member

*H.R. 3375—Embassy Employee Compensation Act.*

#### SUMMARY

H.R. 3375 would authorize the Special Master administering the September 11th Victim Compensation Fund to provide monetary compensation to U.S. citizens that were injured, and to the families of those killed, in the embassy bombings in East Africa on August 7, 1998. Compensation would be for economic and noneconomic losses (including pain, suffering, and loss of companionship). Based on information from the State Department, and on the regulations established for the September 11th Victim Compensation Fund, CBO estimates that enacting H.R. 3375 would cost about \$10 million to compensate those bombing victims and relatives. We expect

that those payments would be made in fiscal year 2003. Because enactment of H.R. 3375 would affect direct spending, pay-as-you-go procedures would apply.

H.R. 3375 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on State, local, or tribal governments.

#### ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3375 is shown in the following table. The cost of this legislation falls within budget function 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars					
	2002	2003	2004	2005	2006	2007
<b>CHANGES IN DIRECT SPENDING</b>						
Estimated Budget Authority	0	10	0	0	0	0
Estimated Outlays	0	10	0	0	0	0

#### BASIS OF ESTIMATE

H.R. 3375 would direct the Special Master to issue regulations for accepting claims and hearing evidence within 90 days of enactment of H.R. 3375. The Special Master would then have 140 days following the submission of a claim to determine the amount of compensation and pay the claim.

Based on background information about the 12 deceased victims, and 16 of the injured victims, and considering the regulations published for the September 11th Victim Compensation Fund, CBO estimates that enacting H.R. 3375 would cost \$10 million over the 2003–2007 period to compensate the victims and the families.

Under the bill, the amount of compensation payable from the fund will be reduced by the amount of compensation victims receive from other sources—for example, life insurance, pension funds, death benefit programs, and other government payments related to the bombings. CBO has no information about the specific circumstances of any particular victims of the embassy bombings in East Africa, nor does it have any basis for judging how much compensation any individual victim or victim's family would receive. For the purposes of this estimate, CBO has assumed that the Special Master would provide compensation in amounts similar to those indicated in the regulations for the September 11th Victims Compensation Fund.

Using that information, CBO estimates that the families of the 12 deceased victims would be entitled to payments averaging about \$1.5 million before reductions for the compensation received from collateral sources. Based on information from the State Department about the likely amounts of such compensation under current law, CBO estimates that net payments to families of the deceased victims would total about \$5 million.

The bill also would compensate victims that were injured. According to the State Department, 16 U.S. citizens were evacuated to Europe for treatment of injuries resulting from the bombings,

and some additional victims received medical treatment locally. Payments for each victim would be determined by the particular circumstances of that victim. CBO has no information on the severity of the injuries, nor the degree of disability suffered, but we assume that these victims would receive compensation averaging between \$100,000 and \$200,000, for total payments of about \$5 million. Compensation for these victims could be significantly higher if many of them were severely injured.

#### PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The changes in direct spending that would be subject to pay-as-you-go procedures are shown in the following table.

	By Fiscal Year, in Millions of Dollars										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays	0	10	0	0	0	0	0	0	0	0	0
Changes in receipts	Not applicable										

#### INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3375 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no cost on State, local, or tribal governments.

#### ESTIMATE PREPARED BY:

Federal Costs: Lanette J. Walker (226–2860)  
 Impact on State, Local, and Tribal Governments: Angela Seitz  
 (225–3220)  
 Impact on the Private Sector: Paige Piper/Bach (226–2940)

#### ESTIMATE APPROVED BY:

Peter H. Fontaine  
 Deputy Assistant Director for Budget Analysis

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8 of the Constitution.

#### SECTION-BY-SECTION ANALYSIS AND DISCUSSION

##### *Sec. 1. Short Title*

This section establishes the short title of the act as the “Embassy Employee Compensation Act.”

##### *Sec. 2. Definitions*

This section defines the terms “claimant,” “collateral source,” “economic loss,” “eligible individual,” “noneconomic losses,” and “Special Master” for purposes of the act.

*Sec. 3. Purpose*

This section states that the purpose of the act is to provide compensation to individuals or their family who were injured or killed as a result of the bombings of the U.S. embassies on August 7, 1998.

*Sec. 4. Administration*

Subsection 4(a) provides that the Attorney General, through the Special Master, will administer the established compensation act; promulgate procedural and substantive rules for that administration; and employ and supervise necessary personnel to fulfill the duties of the Special Master.

Subsection 4(b) authorizes the appropriation of such sums as are necessary to pay administrative and support costs for the Special Master to carry out the act.

*Sec. 5. Determination of Eligibility for Compensation*

Subsection 5(a) provides that a claimant can file a claim for compensation under the act with the Special Master. That claim shall be filed on a form developed by the Special Master which the claimant will be able to file electronically (if practical). The information requested by the form will include information concerning the physical harm suffered, the economic and noneconomic losses suffered; and the collateral sources of compensation which the claimant has received or is entitled to receive as a result of the bombings. In the case of a claim filed on behalf of a deceased individual, the form will require information confirming the decedent's death as a result of the August 7, 1998, bombings. The subsection provides that no claim under the act may be filed after the date that is 2 years after the date regulations necessary to the act are promulgated.

Subsection 5(b) provides that the Special Master review claims and first determines the claimant's eligibility. Once eligibility has been confirmed, the Special Master is to determine the extent of harm done to the claimant and the amount of compensation they are entitled to based on the harm done; facts of the claim; and individual circumstances of the claimant. When evaluating a claim, the Special Master will not consider negligence with respect to the claimant. The review and determination of the claim must be completed within 120 days after the date the claim is filed. The Special Master will provide written notice of the final determination and the basis for that determination to the claimant within that timeframe. The Special Master's determination is final and not subject to judicial review. The claimants will have the right to be represented by an attorney, and to present written evidence and witnesses to support their claim. They will also retain due process rights that are deemed appropriate by the Special Master. The act does not allow for the granting of any punitive damages. Any amounts received under the act are to be reduced by the amount of any collateral source compensation the claimant has received or is entitled to as a result of the bombings.

Subsection 5(c) provides that an individual will be considered eligible for compensation if he is a citizen of the United States who was present at the embassies at the time or the bombings or in the immediate aftermath and suffered physical harm or death as a re-

sult. In the case of a decedent, the personal representative of the decedent will be considered an eligible individual. The subsection further provides that no more than one claim may be filed by an one individual or on behalf of a deceased individual. Upon the filing of a claim, the individual waives all rights to file a civil action or be a party to an action in Federal or State court for damages resulting from the bombings. If an individual is a party to a civil action at the time of enactment of this act, they are prohibited from filing a claim under the act unless they withdraw from that civil action within 90 days after the regulation have been promulgated for the act. These restrictions do not apply to civil actions to recover collateral source compensation.

*Sec. 6. Payments to Eligible Individuals*

Subsection 6(a) provides that the Special Master must authorize payments to an eligible claimant of the amount they have been deemed eligible to receive under that act not later than 20 days after the date on which the determination of that amount has been made.

Subsection 6(b) provides that the payments under the act are to be made through direct spending.

Subsection 6(c) provides that the Attorney General is authorized to accept contributions by individuals, business concerns, and other entities to carry out the act. The Attorney General may impose any terms or conditions on those contributions that are appropriate. The contributed funds are to be used prior to any appropriated amounts for carrying out the act.

*Sec. 7. Regulations*

Section 7 provides that the Attorney General, through the Special Master will promulgate regulations to carry out the act within 90 days after enactment. There will be regulations promulgated with respect to the forms to be used for submission of a claim, the information to be included in those forms, the procedures for hearing and presentation of evidence, procedures for assisting potential claimants in the filing and pursuit of a claim, and other matters which the Attorney General deems necessary to carry out the act.

*Sec. 8. Right of Subrogation*

Section 8 provides that the United States has the right of subrogation with respect to any claim paid from U.S. funds under this act.

MARKUP TRANSCRIPT

**BUSINESS MEETING**  
**WEDNESDAY, APRIL 24, 2002**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:09 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. [Presiding.] The Committee will be in order.

[Intervening business.]

Now, pursuant to notice, I call up the bill H.R. 3375, the "Embassy Employee Compensation Act," for purposes of markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point.

[The bill, H.R. 3375, follows:]

107TH CONGRESS  
1ST SESSION

# H. R. 3375

To provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 29, 2001

Mr. BLUNT (for himself, Mr. MORAN of Virginia, Mr. WOLF, Mr. OBEY, Mr. ISAKSON, Mr. WYNN, Mr. BOYD, Ms. MCKINNEY, Mr. FRANK, Ms. WATERS, Mr. FALCOMA, Mr. WATT of North Carolina, Mr. SCOTT, Mr. THOMPSON of Mississippi, Mr. OWENS, and Mr. PAYNE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001.

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 “Embassy Employee  
5 Compensation Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) CLAIMANT.—The term “claimant” means  
4 an individual filing a claim for compensation under  
5 section 5(a)(1).

6 (2) COLLATERAL SOURCE.—The term “collat-  
7 eral source” means all collateral sources, including  
8 life insurance, pension funds, death benefit pro-  
9 grams, and payments by Federal, State, or local  
10 governments related to the bombings of United  
11 States embassies in East Africa on August 7, 1998.

12 (3) ECONOMIC LOSS.—The term “economic  
13 loss” means any pecuniary loss resulting from harm  
14 (including the loss of earnings or other benefits re-  
15 lated to employment, medical expense loss, replace-  
16 ment services loss, loss due to death, burial costs,  
17 and loss of business or employment opportunities) to  
18 the extent recovery for such loss is allowed under ap-  
19 plicable State law.

20 (4) ELIGIBLE INDIVIDUAL.—The term “eligible  
21 individual” means an individual determined to be eli-  
22 gible for compensation under section 5(c).

23 (5) NONECONOMIC LOSSES.—The term “non-  
24 economic losses” means losses for physical and emo-  
25 tional pain, suffering, inconvenience, physical im-  
26 pairment, mental anguish, disfigurement, loss of en-

1 joyment of life, loss of society and companionship,  
2 loss of consortium (other than loss of domestic serv-  
3 ice), hedonic damages, injury to reputation, and all  
4 other nonpecuniary losses of any kind or nature.

5 (6) SPECIAL MASTER.—The term “Special Mas-  
6 ter” means the Special Master appointed under sec-  
7 tion 404(a) of the September 11th Victim Com-  
8 pensation Fund of 2001 (title IV of the Air Trans-  
9 portation Safety and System Stabilization Act (Pub-  
10 lic Law 107–42; 115 Stat. \_\_\_\_)).

11 **SEC. 3. PURPOSE.**

12 It is the purpose of this Act to provide compensation  
13 to any individual (or relatives of a deceased individual)  
14 who was physically injured or killed as a result of the  
15 bombings of United States embassies in East Africa on  
16 August 7, 1998.

17 **SEC. 4. ADMINISTRATION.**

18 (a) IN GENERAL.—The Attorney General, acting  
19 through the Special Master, shall—

20 (1) administer the compensation program es-  
21 tablished under this Act;

22 (2) promulgate all procedural and substantive  
23 rules for the administration of this Act; and

1           (3) employ and supervise hearing officers and  
2           other administrative personnel to perform the duties  
3           of the Special Master under this Act.

4           (b) AUTHORIZATION OF APPROPRIATIONS.—There  
5           are authorized to be appropriated such sums as may be  
6           necessary to pay the administrative and support costs for  
7           the Special Master in carrying out this Act.

8           **SEC. 5. DETERMINATION OF ELIGIBILITY FOR COMPENSA-**  
9           **TION.**

10          (a) FILING OF CLAIM.—

11               (1) IN GENERAL.—A claimant may file a claim  
12               for compensation under this Act with the Special  
13               Master. The claim shall be on the form developed  
14               under paragraph (2) and shall state the factual basis  
15               for eligibility for compensation and the amount of  
16               compensation sought.

17               (2) CLAIM FORM.—

18                     (A) IN GENERAL.—The Special Master  
19                     shall develop a claim form that claimants shall  
20                     use when submitting claims under paragraph  
21                     (1). The Special Master shall ensure that such  
22                     form can be filed electronically, if determined to  
23                     be practicable.

24                     (B) CONTENTS.—The form developed  
25                     under subparagraph (A) shall request—

1 (i) information from the claimant con-  
2 cerning the physical harm that the claim-  
3 ant suffered, or in the case of a claim filed  
4 on behalf of a decedent information con-  
5 firming the decedent's death, as a result of  
6 the bombings of United States embassies  
7 in East Africa on August 7, 1998;

8 (ii) information from the claimant  
9 concerning any possible economic and non-  
10 economic losses that the claimant suffered  
11 as a result of such bombings; and

12 (iii) information regarding collateral  
13 sources of compensation the claimant has  
14 received or is entitled to receive as a result  
15 of such bombings.

16 (3) LIMITATION.—No claim may be filed under  
17 paragraph (1) after the date that is 2 years after  
18 the date on which regulations are promulgated  
19 under section 7.

20 (b) REVIEW AND DETERMINATION.—

21 (1) REVIEW.—The Special Master shall review  
22 a claim submitted under subsection (a) and  
23 determine—

24 (A) whether the claimant is an eligible in-  
25 dividual under subsection (c);

1 (B) with respect to a claimant determined  
2 to be an eligible individual—

3 (i) the extent of the harm to the  
4 claimant, including any economic and non-  
5 economic losses; and

6 (ii) the amount of compensation to  
7 which the claimant is entitled based on the  
8 harm to the claimant, the facts of the  
9 claim, and the individual circumstances of  
10 the claimant.

11 (2) NEGLIGENCE.—With respect to a claimant,  
12 the Special Master shall not consider negligence or  
13 any other theory of liability.

14 (3) DETERMINATION.—Not later than 120 days  
15 after that date on which a claim is filed under sub-  
16 section (a), the Special Master shall complete a re-  
17 view, make a determination, and provide written no-  
18 tice to the claimant, with respect to the matters that  
19 were the subject of the claim under review. Such a  
20 determination shall be final and not subject to judi-  
21 cial review.

22 (4) RIGHTS OF CLAIMANT.—A claimant in a re-  
23 view under paragraph (1) shall have—

24 (A) the right to be represented by an at-  
25 torney;

1 (B) the right to present evidence, including  
2 the presentation of witnesses and documents;  
3 and

4 (C) any other due process rights deter-  
5 mined appropriate by the Special Master.

6 (5) NO PUNITIVE DAMAGES.—The Special Mas-  
7 ter may not include amounts for punitive damages  
8 in any compensation paid under a claim under this  
9 Act.

10 (6) COLLATERAL COMPENSATION.—The Special  
11 Master shall reduce the amount of compensation de-  
12 termined under paragraph (1)(B)(ii) by the amount  
13 of the collateral source compensation the claimant  
14 has received or is entitled to receive as a result of  
15 the bombings of United States embassies in East Af-  
16 rica on August 7, 1998.

17 (c) ELIGIBILITY.—

18 (1) IN GENERAL.—A claimant shall be deter-  
19 mined to be an eligible individual for purposes of  
20 this subsection if the Special Master determines that  
21 such claimant—

22 (A) is an individual described in paragraph  
23 (2); and

24 (B) meets the requirements of paragraph  
25 (3).

1 (2) INDIVIDUALS.—A claimant is an individual  
2 described in this paragraph if the claimant is—

3 (A) a citizen of the United States who—

4 (i) was present at the United States  
5 Embassy in Nairobi, Kenya, or the United  
6 States Embassy in Dar es Salaam, Tan-  
7 zania, at the time, or in the immediate  
8 aftermath, of the bombings of United  
9 States embassies in East Africa on August  
10 7, 1998; and

11 (ii) suffered physical harm or death as  
12 a result of such a bombing; or

13 (B) in the case of a decedent who is an in-  
14 dividual described in subparagraph (A), the per-  
15 sonal representative of the decedent who files a  
16 claim on behalf of the decedent.

17 (3) REQUIREMENTS.—

18 (A) SINGLE CLAIM.—Not more than one  
19 claim may be submitted under this Act by an  
20 individual or on behalf of a deceased individual.

21 (B) LIMITATION ON CIVIL ACTION.—

22 (i) IN GENERAL.—Upon the submis-  
23 sion of a claim under this Act, the claim-  
24 ant waives the right to file a civil action  
25 (or to be a party to an action) in any Fed-

1           eral or State court for damages sustained  
2           as a result of the bombings of United  
3           States embassies in East Africa on August  
4           7, 1998. The preceding sentence does not  
5           apply to a civil action to recover collateral  
6           source obligations.

7           (ii) PENDING ACTIONS.—In the case  
8           of an individual who is a party to a civil  
9           action described in clause (i), such indi-  
10          vidual may not submit a claim under this  
11          Act unless such individual withdraws from  
12          such action by the date that is 90 days  
13          after the date on which regulations are  
14          promulgated under section 7.

15 **SEC. 6. PAYMENTS TO ELIGIBLE INDIVIDUALS.**

16          (a) IN GENERAL.—Not later than 20 days after the  
17          date on which a determination is made by the Special Mas-  
18          ter regarding the amount of compensation due a claimant  
19          under this Act, the Special Master shall authorize pay-  
20          ment to such claimant of the amount determined with re-  
21          spect to the claimant.

22          (b) PAYMENT AUTHORITY.—This Act constitutes  
23          budget authority in advance of appropriations Acts and  
24          represents the obligation of the Federal Government to

1 provide for the payment of amounts for compensation  
2 under this Act.

3 (c) ADDITIONAL FUNDING.—

4 (1) IN GENERAL.—The Attorney General is au-  
5 thorized to accept such amounts as may be contrib-  
6 uted by individuals, business concerns, or other enti-  
7 ties to carry out this Act, under such terms and con-  
8 ditions as the Attorney General may impose.

9 (2) USE OF SEPARATE ACCOUNT.—In making  
10 payments under this section, amounts contained in  
11 any account containing funds provided under para-  
12 graph (1) shall be used prior to using appropriated  
13 amounts.

14 **SEC. 7. REGULATIONS.**

15 Not later than 90 days after the date of enactment  
16 of this Act, the Attorney General, in consultation with the  
17 Special Master, shall promulgate regulations to carry out  
18 this Act, including regulations with respect to—

19 (1) forms to be used in submitting claims under  
20 this Act;

21 (2) the information to be included in such  
22 forms;

23 (3) procedures for hearing and the presentation  
24 of evidence;

1           (4) procedures to assist an individual in filing  
2           and pursuing claims under this Act; and

3           (5) other matters determined appropriate by  
4           the Attorney General.

5 **SEC. 8. RIGHT OF SUBROGATION.**

6           The United States shall have the right of subrogation  
7           with respect to any claim paid by the United States under  
8           this Act.

○

Chairman SENSENBRENNER. The Chair recognizes the gentleman from Pennsylvania, Mr. Gekas, Chairman of the Subcommittee on Immigration and Claims, for 5 minutes to explain the bill.

Mr. GEKAS. I thank the Chair.

As everyone recalls, after September the 11th, Congress created the Special Victim Compensation Fund to cover the victims of September the 11th. What this bill does is hark back to August the 7th when the embassies at Nairobi, Kenya, and in Tanzania were terrorized by the adherents of Osama bin Laden, and extensive damage and deaths occurred as a result of those two terror incidents.

This bill seeks to add—to constitute a real add-on to the already existing Victims Compensation Fund, and so that the Attorney General, in pursuing the compensation for September the 11th, under this bill now will add through the Special Master consideration of the victims of those two embassy bombings.

I yield back the balance of my time.

Chairman SENSENBRENNER. The gentlewoman from Texas, Ms. Jackson Lee, wish to move to strike the last word, with the admonition about drifting-away reporting quorum.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I am conscious of that.

Let me quickly say that I'd like to thank the Chairman and particularly thank Congresswoman Waters for being persistent in this issue and for leading us on this bill. H.R. 3375 would provide compensation for United States citizens who were victims of the bombings of the United States Embassies in East Africa on August 7, 1998, on the same basis as compensation provided to victims of the terrorist-related aircraft crashes on September 11th.

I simply want to say that this has been a long journey. It's a very fair compensation act. It responds to the servants that serve us around the world. And I hope that this will be moved expeditiously through this Committee and am pleased to offer my support for this legislation, H.R. 3375.

I yield back.

Chairman SENSENBRENNER. The gentlewoman from California?

Ms. WATERS. I'd like to thank all of the Members who have been involved with bringing this legislation before us. This poor family of the victims have been working on this for such a long time. I attempted to amend the USA PATRIOT Act. That did not work. But this will work. It is the right thing to do.

You've heard a description about what happened in Kenya and Tanzania, and I think everyone will agree that this is long-delayed compensation that we must all give support to.

So I will yield back the balance of my time.

Chairman SENSENBRENNER. Without objection, Members will be authorized to insert opening statements in the record at this point.

[The prepared statement of Mr. Flake follows:]

PREPARED STATEMENT OF THE HONORABLE JEFF FLAKE, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF ARIZONA

Mr. Chairman, I am compelled to note my concerns about H.R. 3375, the Embassy Employee Compensation Act. The bill would compensate U.S. victims of bombings of embassies in East Africa in August 1998 on the same basis as compensation was provided to victims of the terrorist attacks on September 11, 2001. While at first glance this seems to be a noble and inoffensive gesture, the bill is setting a questionable precedent. Certainly, other individuals have suffered greatly due to terrorism. The 168 victims of domestic terrorist Timothy McVeigh who died in the

bombing of the Murrah Building in Oklahoma City are but one example. To compensate victims in a piecemeal fashion through the legislative process does not pay proper tribute to all victims of terror and their families.

The State Department was directed by Congress in last year's bill appropriating funds for the Departments of Commerce, Justice, and State and the Judiciary to come up with a fair and comprehensive scheme for compensating all victims of terrorism. A proposal has been sent to the Office of Management and Budget and the Department of Justice, where it is awaiting approval. This proposal would direct the Foreign Claims Settlement Commission to administer the program, which would be funded by both federal funds and funds recouped by international courts from terrorists. There would be a cap on the awards but, unlike the September 11 Victim Compensation Fund, victims could accept money from other sources without negatively impacting the monies they receive from the fund.

Instead of pursuing narrow legislative actions, Congress should pressure the Administration to move forward with development of a comprehensive plan to compensate all victims of terror. This is a far fairer and more judicious approach to the compensation of victims of terror.

[The prepared statement of Ms. Jackson Lee follows:]

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STATEMENT OF  
CONGRESSWOMAN SHEILA JACKSON LEE  
*H.R. 3375 - the "Embassy Employee Compensation Act"*  
April 18, 2002



Thank-you Mr. Chairman. I would like to thank the

**Chairman for taking this up for consideration and Congressman Waters for bringing this issue to our attention by sponsoring her own bill. H.R.3375 would provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001.**

**On September 22, 2001, the September 11th Victim**

**Compensation Fund of 2001 was established as part of Public Law 107-42. That fund created a compensation program, administered by the Attorney General through a Special Master, for any individual who was injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001.**

**On August 7, 1998, agents of Osama bin Laden orchestrated near simultaneous vehicular bombings of the US Embassies in Nairobi, Kenya, and Dar Es Salaam, Tanzania. These terrorist incidents cost the lives of over 220 persons and wounded more than 4,000 others. Twelve American USG employees and family members were among those killed.**

**H.R. 3375, the “Embassy Employee Compensation Act” directs the Attorney General to provide compensation for those American citizens who were victims of the bombings of the United States Embassy in Nairobi, Kenya and of the United States Embassy in Dar es Salaam, Tanzania on August 7, 1998, through the Special Master appointed to administer the September 11<sup>th</sup> Victim Compensation**

**Fund of 2001. The bill would authorize payments for physical harm, economic losses and noneconomic losses, such as physical and emotional pain or loss of enjoyment of life, for individuals present at either of the bombings or their immediate aftermath. These are the same standards for payment that are applied to individuals receiving payment under the September 11<sup>th</sup> fund. In the case of a deceased individual, the bill would allow relatives of that individual to be compensated. This is worthwhile legislation that I urge all my colleagues to support.**

Are there any amendments? If there are none, the Chair notes the presence of a reporting quorum. The question is on the motion to report the bill——

Ms. JACKSON LEE. Mr. Chairman? I don't know, Mr. Nadler was en route to try and offer something. Is he coming around the corner?

[Pause.]

Chairman SENSENBRENNER. The question occurs on the motion to report the bill H.R. 3375 favorably. All those in favor will say aye? Opposed, no?

The ayes appear to have it. The ayes have it, and the bill is reported favorably. Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days, as provided by House rules, in which to submit additional dissenting, supplemental, or minority views.

The Chair would like to get through the three private bills that are here before we break and before the reporting quorum leaves. The gentleman from Florida?

Mr. WEXLER. May I just take 30 seconds? Mr. Nadler was going to offer an amendment that included in the opportunity to have a remedy those employees of the U.S. Embassy who are not American citizens, which my understanding is comparable to what was done for non-citizens that were victims of the September 11th attack in the World Trade Center. And I just offer that as an observation, and maybe we then could do it on the floor.