

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.

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## 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

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

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

5 “(D) COMPENSATION REDUCED BY SPE-  
6 CIAL MASTER DUE TO INSUFFICIENT FUND-  
7 ING.—

8 “(i) IN GENERAL.—With respect to  
9 any claim in Group B as described in sec-  
10 tion 405(a)(3)(C)(iii) for which, prior to  
11 the date of enactment of this subpara-  
12 graph, the Special Master had advised the  
13 claimant that the amount of compensation  
14 for such claim has been reduced on the  
15 basis of insufficient funding, the Special  
16 Master shall, in the first fiscal year fol-  
17 lowing such date of enactment that suffi-  
18 cient funding becomes available under this  
19 title, pay to the claimant an amount that  
20 is, as determined by the Special Master,  
21 equal to the difference between—

22 “(I) the amount the claimant  
23 would have been paid under this title  
24 if sufficient funding was available to  
25 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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