

107TH CONGRESS
1ST SESSION

S. 1450

To preserve the continued viability of the United States air transportation system.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2001

Mr. DASCHLE (for himself and Mr. LOTT) introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To preserve the continued viability of the United States air transportation system.

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 “Air Transportation
5 Safety and System Stabilization Act”.

6 **TITLE I—AIRLINE**
7 **STABILIZATION**

8 **SEC. 101. AVIATION DISASTER RELIEF.**

9 (a) IN GENERAL.—Notwithstanding any other provi-
10 sion of law, the President shall take the following actions

1 to compensate air carriers for losses incurred by the air
2 carriers as a result of the terrorist attacks on the United
3 States that occurred on September 11, 2001:

4 (1) Subject to such terms and conditions as the
5 President deems necessary, issue Federal credit in-
6 struments to air carriers that do not, in the aggre-
7 gate, exceed \$10,000,000,000 and provide the sub-
8 sidy amounts necessary for such instruments in ac-
9 cordance with the provisions of the Federal Credit
10 Reform Act of 1990 (2 U.S.C. 661 et seq.).

11 (2) Compensate air carriers in an aggregate
12 amount equal to \$5,000,000,000 for—

13 (A) direct losses incurred beginning on
14 September 11, 2001, by air carriers as a result
15 of any Federal ground stop order issued by the
16 Secretary of Transportation or any subsequent
17 order which continues or renews such a stop-
18 page; and

19 (B) the incremental losses incurred begin-
20 ning September 11, 2001, and ending Decem-
21 ber 31, 2001, by air carriers as a direct result
22 of such attacks.

23 (b) EMERGENCY DESIGNATION.—Congress des-
24 ignates the amount of new budget authority and outlays
25 in all fiscal years resulting from this title as an emergency

1 requirement pursuant to section 252(e) of the Balanced
2 Budget and Emergency Deficit Control Act of 1985 (2
3 U.S.C. 901(e)). Such amount shall be available only to the
4 extent that a request, that includes designation of such
5 amount as an emergency requirement as defined in such
6 Act, is transmitted by the President to Congress.

7 **SEC. 102. AIR TRANSPORTATION STABILIZATION BOARD.**

8 (a) DEFINITIONS.—In this section, the following defi-
9 nitions apply:

10 (1) BOARD.—The term “Board” means the Air
11 Transportation Stabilization Board established
12 under subsection (b).

13 (2) FINANCIAL OBLIGATION.—The term “finan-
14 cial obligation” means any note, bond, debenture, or
15 other debt obligation issued by an obligor in connec-
16 tion with financing under this section and section
17 101(a)(1).

18 (3) LENDER.—The term “lender” means any
19 non-Federal qualified institutional buyer (as defined
20 by section 230.144A(a) of title 17, Code of Federal
21 Regulations (or any successor regulation) known as
22 Rule 144A(a) of the Securities and Exchange Com-
23 mission and issued under the Security Act of 1933,
24 including—

1 (A) a qualified retirement plan (as defined
2 in section 4974(c) of the Internal Revenue Code
3 of 1986 (26 U.S.C. 4974(c)) that is a qualified
4 institutional buyer; and

5 (B) a governmental plan (as defined in
6 section 414(d) of the Internal Revenue Code of
7 1986 (26 U.S.C. 414(d)) that is a qualified in-
8 stitutional buyer.

9 (4) OBLIGOR.—The term “obligor” means a
10 party primarily liable for payment of the principal of
11 or interest on a Federal credit instrument, which
12 party may be a corporation, partnership, joint ven-
13 ture, trust, or governmental entity, agency, or in-
14 strumentality.

15 (b) AIR TRANSPORTATION STABILIZATION BOARD.—

16 (1) ESTABLISHMENT.—There is established a
17 board (to be known as the “Air Transportation Sta-
18 bilization Board”) to review and decide on applica-
19 tions for Federal credit instruments under section
20 101(a)(1).

21 (2) COMPOSITION.—The Board shall consist
22 of—

23 (A) the Secretary of Transportation or the
24 designee of the Secretary;

1 (B) the Chairman of the Board of Gov-
 2 ernors of the Federal Reserve System, or the
 3 designee of the Chairman, who shall be the
 4 Chair of the Board;

5 (C) the Secretary of the Treasury or the
 6 designee of the Secretary; and

7 (D) the Comptroller General of the United
 8 States, or the designee of the Comptroller Gen-
 9 eral, as a nonvoting member of the Board.

10 (c) FEDERAL CREDIT INSTRUMENTS.—

11 (1) IN GENERAL.—The Board may enter into
 12 agreements with 1 or more obligors to issue Federal
 13 credit instruments under section 101(a)(1) if the
 14 Board determines, in its discretion, that—

15 (A) the obligor is an air carrier for which
 16 credit is not reasonably available at the time of
 17 the transaction;

18 (B) the intended obligation by the obligor
 19 is prudently incurred; and

20 (C) such agreement is a necessary part of
 21 maintaining a safe, efficient, and viable com-
 22 mercial aviation system in the United States.

23 (2) TERMS AND LIMITATIONS.—

24 (A) FORMS; TERMS AND CONDITIONS.—A
 25 Federal credit instrument shall be issued under

1 section 101(a)(1) in such form and on such
2 terms and conditions and contain such cov-
3 enants, representatives, warranties, and require-
4 ments (including requirements for audits) as
5 the Board determines appropriate.

6 (B) PROCEDURES.—Not later than 14
7 days after the date of enactment of this Act,
8 the Director of the Office of Management and
9 Budget shall issue regulations setting forth pro-
10 cedures for application and minimum require-
11 ments, which may be supplemented by the
12 Board in its discretion, for the issuance of Fed-
13 eral credit instruments under section 101(a)(1).

14 (d) FINANCIAL PROTECTION OF GOVERNMENT.—

15 (1) IN GENERAL.—To the extent feasible and
16 practicable, the Board shall ensure that the Govern-
17 ment is compensated for the risk assumed in making
18 guarantees under this title.

19 (2) GOVERNMENT PARTICIPATION IN GAINS.—
20 To the extent to which any participating corporation
21 accepts financial assistance, in the form of accepting
22 the proceeds of any loans guaranteed by the Govern-
23 ment under this title, the Board is authorized to
24 enter into contracts under which the Government,
25 contingent on the financial success of the partici-

1 participating corporation, would participate in the gains of
2 the participating corporation or its security holders
3 through the use of such instruments as warrants,
4 stock options, common or preferred stock, or other
5 appropriate equity instruments.

6 (3) DEPOSIT IN TREASURY.—All amounts col-
7 lected by the Secretary of the Treasury under this
8 subsection shall be deposited in the Treasury as mis-
9 cellaneous receipts.

10 **SEC. 103. SPECIAL RULES FOR COMPENSATION.**

11 (a) DOCUMENTATION.—Subject to subsection (b), the
12 amount of compensation payable to an air carrier under
13 section 101(a)(2) may not exceed the amount of losses de-
14 scribed in section 101(a)(2) that the air carrier dem-
15 onstrates to the satisfaction of the President, using sworn
16 financial statements or other appropriate data, that the
17 air carrier incurred. The Secretary of Transportation and
18 the Comptroller General of the United States may audit
19 such statements and may request any information that the
20 Secretary and the Comptroller General deems necessary
21 to conduct such audit.

22 (b) MAXIMUM AMOUNT OF COMPENSATION PAYABLE
23 PER AIR CARRIER.—The maximum total amount of com-
24 pensation payable to an air carrier under section
25 101(a)(2) may not exceed the lesser of—

1 (1) the amount of such air carrier's direct and
2 incremental losses described in section 101(a)(2); or

3 (2) in the case of—

4 (A) flights involving passenger-only or
5 combined passenger and cargo transportation,
6 the product of—

7 (i) \$4,500,000,000; and

8 (ii) the ratio of—

9 (I) the available seat miles of the
10 air carrier for the month of August
11 2001 as reported to the Secretary; to

12 (II) the total available seat miles
13 of all such air carriers for such month
14 as reported to the Secretary; and

15 (B) flights involving cargo-only transpor-
16 tation, the product of—

17 (i) \$500,000,000; and

18 (ii) the ratio of—

19 (I) the revenue ton miles or other
20 auditable measure of the air carrier
21 for cargo for the latest quarter for
22 which data is available as reported to
23 the Secretary; to

24 (II) the total revenue ton miles
25 or other auditable measure of all such

1 air carriers for cargo for such quarter
2 as reported to the Secretary.

3 (c) PAYMENTS.—The President may provide com-
4 pensation to air carriers under section 101(a)(2) in 1 or
5 more payments up to the amount authorized by this title.

6 **SEC. 104. LIMITATION ON CERTAIN EMPLOYEE COMPENSA-**
7 **TION.**

8 (a) IN GENERAL.—The President may only issue a
9 Federal credit instrument under section 101(a)(1) to an
10 air carrier after the air carrier enters into a legally binding
11 agreement with the President that, during the 2-year pe-
12 riod beginning September 11, 2001, and ending Sep-
13 tember 11, 2003, no officer or employee of the air carrier
14 whose total compensation exceeded \$300,000 in calendar
15 year 2000 (other than an employee whose compensation
16 is determined through an existing collective bargaining
17 agreement entered into prior to September 11, 2001)—

18 (1) will receive from the air carrier total com-
19 pensation which exceeds, during any 12 consecutive
20 months of such 2-year period, the total compensa-
21 tion received by the officer or employee from the air
22 carrier in calendar year 2000; and

23 (2) will receive from the air carrier severance
24 pay or other benefits upon termination of employ-
25 ment with the air carrier which exceeds twice the

1 maximum total compensation received by the officer
2 or employee from the air carrier in calendar year
3 2000.

4 (b) **TOTAL COMPENSATION DEFINED.**—In this sec-
5 tion, the term “total compensation” includes salary, bo-
6 nuses, awards of stock, and other financial benefits pro-
7 vided by an air carrier to an officer or employee of the
8 air carrier.

9 **SEC. 105. CONTINUATION OF CERTAIN AIR SERVICE.**

10 (a) **ACTION OF SECRETARY.**—The Secretary of
11 Transportation should take appropriate action to ensure
12 that all communities that had scheduled air service before
13 September 11, 2001, continue to receive adequate air
14 transportation service and that essential air service to
15 small communities continues without interruption.

16 (b) **ESSENTIAL AIR SERVICE.**—There is authorized
17 to be appropriated to the Secretary to carry out the essen-
18 tial air service program under subchapter II of chapter
19 417 of title 49, United States Code, \$120,000,000 for fis-
20 cal year 2002.

21 (c) **SECRETARIAL OVERSIGHT.**—

22 (1) **IN GENERAL.**—Notwithstanding any other
23 provision of law, the Secretary is authorized to re-
24 quire an air carrier receiving direct financial assist-
25 ance under this Act to maintain scheduled air serv-

1 ice to any point served by that carrier before Sep-
2 tember 11, 2001.

3 (2) AGREEMENTS.—In applying paragraph (1),
4 the Secretary may require air carriers receiving di-
5 rect financial assistance under this Act to enter into
6 agreements which will ensure, to the maximum ex-
7 tent practicable, that all communities that had
8 scheduled air service before September 11, 2001,
9 continue to receive adequate air transportation serv-
10 ice.

11 **SEC. 106. REPORTS.**

12 (a) REPORT.—Not later than February 1, 2001, the
13 President shall transmit to the Committee on Transpor-
14 tation and Infrastructure, the Committee on Appropria-
15 tions, and the Committee on the Budget of the House of
16 Representatives and the Committee on Commerce,
17 Science, and Transportation, the Committee on Appro-
18 priations, and the Committee on the Budget of the Senate
19 a report on the financial status of the air carrier industry
20 and the amounts of assistance provided under this title
21 to each air carrier.

22 (b) UPDATE.—Not later than the last day of the 7-
23 month period following the date of enactment of this Act,
24 the President shall update and transmit the report to the
25 Committees.

1 **SEC. 107. DEFINITIONS.**

2 In this title, the following definitions apply:

3 (1) AIR CARRIER.—The term “air carrier” has
4 the meaning such term has under section 40102 of
5 title 49, United States Code.

6 (2) FEDERAL CREDIT INSTRUMENT.—The term
7 “Federal credit instrument” means any guarantee or
8 other pledge by the Board issued under section
9 101(a)(1) to pledge the full faith and credit of the
10 United States to pay all or part of any of the prin-
11 cipal of and interest on a loan or other debt obliga-
12 tion issued by an obligor and funded by a lender.

13 (3) INCREMENTAL LOSS.—The term “incree-
14 mental loss” does not include any loss that the
15 President determines would have been incurred if
16 the terrorist attacks on the United States that oc-
17 curred on September 11, 2001, had not occurred.

18 **TITLE II—AVIATION INSURANCE**

19 **SEC. 201. DOMESTIC INSURANCE AND REIMBURSEMENT OF**
20 **INSURANCE COSTS.**

21 (a) IN GENERAL.—Section 44302 of title 49, United
22 States Code, is amended—

23 (1) in subsection (a)(1)—

24 (A) by striking “subsection (b)” and in-
25 serting “subsection (e)”; and

1 (B) by striking “foreign-flag aircraft—”
2 and all that follows through the period at the
3 end of subparagraph (B) and inserting “for-
4 eign-flag aircraft.”;

5 (2) by redesignating subsections (b), (c), and
6 (d) as subsections (c), (d), and (e), respectively;

7 (3) by inserting after subsection (a) the fol-
8 lowing:

9 “(b) REIMBURSEMENT OF INSURANCE COST IN-
10 CREASES.—

11 “(1) IN GENERAL.—The Secretary may reim-
12 burse an air carrier for the increase in the cost of
13 insurance, with respect to a premium for coverage
14 ending before October 1, 2002, against loss or dam-
15 age arising out of any risk from the operation of an
16 American aircraft over the insurance premium that
17 was in effect for a comparable operation during the
18 period beginning September 4, 2001, and ending
19 September 10, 2001, as the Secretary may deter-
20 mine. Such reimbursement is subject to subsections
21 (a)(2), (c), and (d) of this section and to section
22 44303.

23 “(2) PAYMENT FROM REVOLVING FUND.—A re-
24 imbursement under this subsection shall be paid

1 from the revolving fund established by section
2 44307.

3 “(3) FURTHER CONDITIONS.—The Secretary
4 may impose such further conditions on insurance for
5 which the increase in premium is subject to reim-
6 bursement under this subsection as the Secretary
7 may deem appropriate in the interest of air com-
8 merce.

9 “(4) TERMINATION OF AUTHORITY.—The au-
10 thority to reimburse air carriers under this sub-
11 section shall expire 180 days after the date of enact-
12 ment of this paragraph.”;

13 (4) in subsection (c) (as so redesignated)—

14 (A) in the first sentence by inserting “, or
15 reimburse an air carrier under subsection (b) of
16 this section,” before “only with the approval”;
17 and

18 (B) in the second sentence—

19 (i) by inserting “or the reimburse-
20 ment” before “only after deciding”; and

21 (ii) by inserting “in the interest of air
22 commerce or national security or” before
23 “to carry out the foreign policy”; and

1 (5) in subsection (d) (as so redesignated) by in-
2 serting “or reimbursing an air carrier” before
3 “under this chapter”.

4 (b) COVERAGE.—

5 (1) IN GENERAL.—Section 44303 of such title
6 is amended—

7 (A) in the matter preceding paragraph (1)
8 by inserting “, or reimburse insurance costs,
9 as” after “insurance and reinsurance”; and

10 (B) in paragraph (1) by inserting “in the
11 interest of air commerce or national security
12 or” before “to carry out the foreign policy”.

13 (2) DISCRETION OF THE SECRETARY.—For
14 acts of terrorism committed on or to an air carrier
15 during the 180-day period following the date of en-
16 actment of this Act, the Secretary of Transportation
17 may certify that the air carrier was a victim of an
18 act of terrorism and in the Secretary’s judgment,
19 based on the Secretary’s analysis and conclusions re-
20 garding the facts and circumstances of each case,
21 shall not be responsible for losses suffered by third
22 parties (as referred to in section 205.5(b)(1) of title
23 14, Code of Federal Regulations) that exceed
24 \$100,000,000, in the aggregate, for all claims by
25 such parties arising out of such act. If the Secretary

1 so certifies, the air carrier shall not be liable for an
2 amount that exceeds \$100,000,000, in the aggregate,
3 for all claims by such parties arising out of
4 such act, and the Government shall be responsible
5 for any liability above such amount. No punitive
6 damages may be awarded against an air carrier (or
7 the Government taking responsibility for an air carrier
8 under this paragraph) under a cause of action
9 arising out of such act.

10 (c) REINSURANCE.—Section 44304 of such title is
11 amended—

12 (1) by striking “(a) GENERAL AUTHORITY.—”;

13 and

14 (2) by striking subsection (b).

15 (d) PREMIUMS.—Section 44306 of such title is
16 amended—

17 (1) by redesignating subsections (b) and (c) as
18 subsections (c) and (d), respectively; and

19 (2) by inserting after subsection (a) the following:
20

21 “(b) ALLOWANCES IN SETTING PREMIUM RATES FOR
22 REINSURANCE.—In setting premium rates for reinsurance,
23 the Secretary may make allowances to the insurance
24 carrier for expenses incurred in providing services and facilities
25 that the Secretary considers good business practices

1 tices, except for payments by the air carrier for the stimu-
 2 lation or solicitation of insurance business.”.

3 (e) CONFORMING AMENDMENT.—Section 44305(b)
 4 of such title is amended by striking “44302(b)” and in-
 5 serting “44302(e)”.

6 **SEC. 202. EXTENSION OF PROVISIONS TO VENDORS,**
 7 **AGENTS, AND SUBCONTRACTORS OF AIR**
 8 **CARRIERS.**

9 Notwithstanding any other provision of this title, the
 10 Secretary may extend any provision of chapter 443 of title
 11 49, United States Code, as amended by this title, and the
 12 provisions of this title, to vendors, agents, and subcontrac-
 13 tors of air carriers. For the 180-day period beginning on
 14 the date of enactment of this Act, the Secretary may ex-
 15 tend or amend any such provisions so as to ensure that
 16 the entities referred to in the preceding sentence are not
 17 responsible in cases of acts of terrorism for losses suffered
 18 by third parties that exceed the amount of such entities’
 19 liability coverage, as determined by the Secretary.

20 **TITLE III—TAX PROVISIONS**

21 **SEC. 301. EXTENSION OF DUE DATE FOR EXCISE TAX DE-**
 22 **POSITS; TREATMENT OF LOSS COMPENSA-**
 23 **TION.**

24 (a) EXTENSION OF DUE DATE FOR EXCISE TAX DE-
 25 POSITS.—

1 (1) IN GENERAL.—In the case of an eligible air
2 carrier, any airline-related deposit required under
3 section 6302 of the Internal Revenue Code of 1986
4 to be made after September 10, 2001, and before
5 November 15, 2001, shall be treated for purposes of
6 such Code as timely made if such deposit is made
7 on or before November 15, 2001. If the Secretary of
8 the Treasury so prescribes, the preceding sentence
9 shall be applied by substituting for “November 15,
10 2001” each place it appears—

11 (A) “January 15, 2002”, or

12 (B) such earlier date after November 15,
13 2001, as such Secretary may prescribe.

14 (2) ELIGIBLE AIR CARRIER.—For purposes of
15 this subsection, the term “eligible air carrier” means
16 any domestic corporation engaged in the trade or
17 business of transporting (for hire) persons by air if
18 such transportation is available to the general pub-
19 lic.

20 (3) AIRLINE-RELATED DEPOSIT.—For purposes
21 of this subsection, the term “airline-related deposit”
22 means any deposit of—

23 (A) taxes imposed by subchapter C of
24 chapter 33 of such Code (relating to transpor-
25 tation by air), and

1 (B) taxes imposed by chapters 21, 22, and
 2 24 with respect to employees engaged in a trade
 3 or business referred to in paragraph (2).

4 (b) TREATMENT OF LOSS COMPENSATION.—Nothing
 5 in any provision of law shall be construed to exclude from
 6 gross income under the Internal Revenue Code of 1986
 7 any compensation received under section 101(a)(2) of this
 8 Act.

9 **TITLE IV—VICTIM**
 10 **COMPENSATION**

11 **SEC. 401. SHORT TITLE.**

12 This title may be cited as the “September 11th Vic-
 13 tim Compensation Fund of 2001”.

14 **SEC. 402. DEFINITIONS.**

15 In this title, the following definitions apply:

16 (1) AIR CARRIER.—The term “air carrier”
 17 means a citizen of the United States undertaking by
 18 any means, directly or indirectly, to provide air
 19 transportation and includes employees and agents of
 20 such citizen.

21 (2) AIR TRANSPORTATION.—The term “air
 22 transportation” means foreign air transportation,
 23 interstate air transportation, or the transportation
 24 of mail by aircraft.

1 (3) CLAIMANT.—The term “claimant” means
2 an individual filing a claim for compensation under
3 section 405(a)(1).

4 (4) COLLATERAL SOURCE.—The term “collat-
5 eral source” means all collateral sources, including
6 life insurance, pension funds, death benefit pro-
7 grams, and payments by Federal, State, or local
8 governments related to the terrorist-related aircraft
9 crashes of September 11, 2001.

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

18 (6) ELIGIBLE INDIVIDUAL.—The term “eligible
19 individual” means an individual determined to be eli-
20 gible for compensation under section 405(c).

21 (7) NONECONOMIC LOSSES.—The term “non-
22 economic losses” means losses for physical and emo-
23 tional pain, suffering, inconvenience, physical im-
24 pairment, mental anguish, disfigurement, loss of en-
25 joyment of life, loss of society and companionship,

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

4 (8) SPECIAL MASTER.—The term “Special Mas-
5 ter” means the Special Master appointed under sec-
6 tion 404(a).

7 **SEC. 403. PURPOSE.**

8 It is the purpose of this title to provide compensation
9 to any individual (or relatives of a deceased individual)
10 who was physically injured or killed as a result of the ter-
11 rorist-related aircraft crashes of September 11, 2001.

12 **SEC. 404. ADMINISTRATION.**

13 (a) IN GENERAL.—The Attorney General, acting
14 through a Special Master appointed by the Attorney Gen-
15 eral, shall—

16 (1) administer the compensation program es-
17 tablished under this title;

18 (2) promulgate all procedural and substantive
19 rules for the administration of this title; and

20 (3) employ and supervise hearing officers and
21 other administrative personnel to perform the duties
22 of the Special Master under this title.

23 (b) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as may be

1 necessary to pay the administrative and support costs for
2 the Special Master in carrying out this title.

3 **SEC. 405. DETERMINATION OF ELIGIBILITY FOR COM-**
4 **PENSATION.**

5 (a) FILING OF CLAIM.—

6 (1) IN GENERAL.—A claimant may file a claim
7 for compensation under this title with the Special
8 Master. The claim shall be on the form developed
9 under paragraph (2) and shall state the factual basis
10 for eligibility for compensation and the amount of
11 compensation sought.

12 (2) CLAIM FORM.—

13 (A) IN GENERAL.—The Special Master
14 shall develop a claim form that claimants shall
15 use when submitting claims under paragraph
16 (1). The Special Master shall ensure that such
17 form can be filed electronically, if determined to
18 be practicable.

19 (B) CONTENTS.—The form developed
20 under subparagraph (A) shall request—

21 (i) information from the claimant con-
22 cerning the physical harm that the claim-
23 ant suffered, or in the case of a claim filed
24 on behalf of a decedent information con-
25 firming the decedent's death, as a result of

1 the terrorist-related aircraft crashes of
2 September 11, 2001;

3 (ii) information from the claimant
4 concerning any possible economic and non-
5 economic losses that the claimant suffered
6 as a result of such crashes; and

7 (iii) information regarding collateral
8 sources of compensation the claimant has
9 received or is entitled to receive as a result
10 of such crashes.

11 (3) LIMITATION.—No claim may be filed under
12 paragraph (1) after the date that is 2 years after
13 the date on which regulations are promulgated
14 under section 407.

15 (b) REVIEW AND DETERMINATION.—

16 (1) REVIEW.—The Special Master shall review
17 a claim submitted under subsection (a) and
18 determine—

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

21 (B) with respect to a claimant determined
22 to be an eligible individual—

23 (i) the extent of the harm to the
24 claimant, including any economic and non-
25 economic losses; and

1 (ii) the amount of compensation to
2 which the claimant is entitled based on the
3 harm to the claimant, the facts of the
4 claim, and the individual circumstances of
5 the claimant.

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

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

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

19 (A) the right to be represented by an at-
20 torney;

21 (B) the right to present evidence, including
22 the presentation of witnesses and documents;
23 and

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

1 (5) NO PUNITIVE DAMAGES.—The Special Mas-
2 ter may not include amounts for punitive damages
3 in any compensation paid under a claim under this
4 title.

5 (6) COLLATERAL COMPENSATION.—The Special
6 Master shall reduce the amount of compensation de-
7 termined under paragraph (1)(B)(ii) by the amount
8 of the collateral source compensation the claimant
9 has received or is entitled to receive as a result of
10 the terrorist-related aircraft crashes of September
11 11, 2001.

12 (c) ELIGIBILITY.—

13 (1) IN GENERAL.—A claimant shall be deter-
14 mined to be an eligible individual for purposes of
15 this subsection if the Special Master determines that
16 such claimant—

17 (A) is an individual described in paragraph

18 (2); and

19 (B) meets the requirements of paragraph

20 (3).

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

23 (A) an individual who—

24 (i) was present at the World Trade

25 Center, (New York, New York), the Pen-

1 tagon (Arlington, Virginia), or the site of
2 the aircraft crash at Shanksville, Pennsyl-
3 vania at the time, or in the immediate
4 aftermath, of the terrorist-related aircraft
5 crashes of September 11, 2001; and

6 (ii) suffered physical harm or death as
7 a result of such an air crash;

8 (B) an individual who was a member of
9 the flight crew or a passenger on American Air-
10 lines flight 11 or 77 or United Airlines flight 93
11 or 175, except that an individual identified by
12 the Attorney General to have been a participant
13 or conspirator in the terrorist-related aircraft
14 crashes of September 11, 2001, or a represent-
15 ative of such individual shall not be eligible to
16 receive compensation under this title; or

17 (C) in the case of a decedent who is an in-
18 dividual described in subparagraph (A) or (B),
19 the personal representative of the decedent who
20 files a claim on behalf of the decedent.

21 (3) REQUIREMENTS.—

22 (A) SINGLE CLAIM.—Not more than one
23 claim may be submitted under this title by an
24 individual or on behalf of a deceased individual.

25 (B) LIMITATION ON CIVIL ACTION.—

1 (i) IN GENERAL.—Upon the submis-
2 sion of a claim under this title, the claim-
3 ant waives the right to file a civil action
4 (or to be a party to an action) in any Fed-
5 eral or State court for damages sustained
6 as a result of the terrorist-related aircraft
7 crashes of September 11, 2001. The pre-
8 ceding sentence does not apply to a civil
9 action to recover collateral source obliga-
10 tions.

11 (ii) PENDING ACTIONS.—In the case
12 of an individual who is a party to a civil
13 action described in clause (i), such indi-
14 vidual may not submit a claim under this
15 title unless such individual withdraws from
16 such action by the date that is 90 days
17 after the date on which regulations are
18 promulgated under section 407.

19 **SEC. 406. PAYMENTS TO ELIGIBLE INDIVIDUALS.**

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

1 (b) PAYMENT AUTHORITY.—This title constitutes
2 budget authority in advance of appropriations Acts and
3 represents the obligation of the Federal Government to
4 provide for the payment of amounts for compensation
5 under this title.

6 (c) ADDITIONAL FUNDING.—

7 (1) IN GENERAL.—The Attorney General is au-
8 thorized to accept such amounts as may be contrib-
9 uted by individuals, business concerns, or other enti-
10 ties to carry out this title, under such terms and
11 conditions as the Attorney General may impose.

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

17 **SEC. 407. REGULATIONS.**

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

22 (1) forms to be used in submitting claims under
23 this title;

24 (2) the information to be included in such
25 forms;

1 (3) procedures for hearing and the presentation
2 of evidence;

3 (4) procedures to assist an individual in filing
4 and pursuing claims under this title; and

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

7 **SEC. 408. LIMITATION ON AIR CARRIER LIABILITY.**

8 (a) **IN GENERAL.**—Notwithstanding any other provi-
9 sion of law, liability for all claims, whether for compen-
10 satory or punitive damages, arising from the terrorist-re-
11 lated aircraft crashes of September 11, 2001, against any
12 air carrier shall not be in an amount greater than the lim-
13 its of the liability coverage maintained by the air carrier.

14 (b) **FEDERAL CAUSE OF ACTION.**—

15 (1) **AVAILABILITY OF ACTION.**—There shall
16 exist a Federal cause of action for damages arising
17 out of the hijacking and subsequent crashes of
18 American Airlines flights 11 and 77, and United
19 Airlines flights 93 and 175, on September 11, 2001.
20 Notwithstanding section 40120(c) of title 49, United
21 States Code, this cause of action shall be the exclu-
22 sive remedy for damages arising out of the hijacking
23 and subsequent crashes of such flights.

24 (2) **SUBSTANTIVE LAW.**—The substantive law
25 for decision in any such suit shall be derived from

1 the law, including choice of law principles, of the
2 State in which the crash occurred unless such law is
3 inconsistent with or preempted by Federal law.

4 (3) JURISDICTION.—The United States District
5 Court for the Southern District of New York shall
6 have original and exclusive jurisdiction over all ac-
7 tions brought for any claim (including any claim for
8 loss of property, personal injury, or death) resulting
9 from or relating to the terrorist-related aircraft
10 crashes of September 11, 2001.

11 (c) EXCLUSION.—Nothing in this section shall in any
12 way limit any liability of any person who is a knowing
13 participant in any conspiracy to hijack any aircraft or
14 commit any terrorist act.

15 **SEC. 409. RIGHT OF SUBROGATION.**

16 The United States shall have the right of subrogation
17 with respect to any claim paid by the United States under
18 this title.

19 **TITLE V—AIR TRANSPORTATION**
20 **SAFETY**

21 **SEC. 501. INCREASED AIR TRANSPORTATION SAFETY.**

22 Congress affirms the President’s decision to spend
23 \$3,000,000,000 on airline safety and security in conjunc-
24 tion with this Act in order to restore public confidence
25 in the airline industry.

1 **SEC. 502. CONGRESSIONAL COMMITMENT.**

2 Congress is committed to act expeditiously, in con-
3 sultation with the Secretary of Transportation, to
4 strengthen airport security and take further measures to
5 enhance the security of air travel.

6 **TITLE VI—SEPARABILITY**

7 **SEC. 601. SEPARABILITY.**

8 If any provision of this Act (including any amend-
9 ment made by this Act) or the application thereof to any
10 person or circumstance is held invalid, the remainder of
11 this Act (including any amendment made by this Act) and
12 the application thereof to other persons or circumstances
13 shall not be affected thereby.

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