

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3633

To provide compensation for the United States citizens or legal permanent residents who were victims of the bombing of the Murrah Federal Building in Oklahoma City, Oklahoma, on April 19, 1995, 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

JANUARY 24, 2002

Mr. TRAFICANT 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 or legal permanent residents who were victims of the bombing of the Murrah Federal Building in Oklahoma City, Oklahoma, on April 19, 1995, 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 “Oklahoma City Victims  
5       Compensation Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) on April 19, 1995, Public Law 100–440 set  
4 a minimum staffing level of Federal Police Officers  
5 at 1,000 Full Time Equivalent personnel for the  
6 Federal Protective Service;

7 (2) on April 19, 1995, and before the Federal  
8 Protective Service and its parent agency the General  
9 Services Administration was charged with providing  
10 security and law enforcement for Federal properties;

11 (3) on April 19, 1995, and before that the Fed-  
12 eral Protective Service failed to meet the required  
13 minimum staffing level by a significant margin in  
14 excess of 60 percent of the mandate;

15 (4) on April 29, 1995, and before the Federal  
16 Protective Service provided only one non-law en-  
17 forcement guard for three or more buildings (includ-  
18 ing the Murrah Federal Building) in the downtown  
19 area of Oklahoma City;

20 (5) on April 19, 1995, and before the Federal  
21 Protective Service and its parent Agency the General  
22 Services Administration were aware of the non-  
23 compliance with Public Law 100–440 and the pos-  
24 sible liabilities resulting therefrom;

25 (6) on April 19, 1995, and before the Federal  
26 Protective Service and its parent Agency the General

1 Services Administration failed to provide adequate  
2 protection and deterrence to Federal properties; and

3 (7) on April 19, 1995, the Federal Protective  
4 Service and its parent agency the General Services  
5 Administration were negligent in the provision of law  
6 enforcement personnel and the security needs of the  
7 Murrah Federal Building in Oklahoma City, Okla-  
8 homa.

9 **SEC. 3. DEFINITIONS.**

10 In this Act the following definitions apply:

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

14 (2) COLLATERAL SOURCE.—The term “collat-  
15 eral source” means all collateral sources, including  
16 life insurance, pension funds, death benefit pro-  
17 grams, and payments by Federal, State, or local  
18 governments related to the bombings of the Murrah  
19 Federal Building on April 19, 1995.

20 (3) ECONOMIC LOSS.—The term “economic  
21 loss” means any pecuniary loss resulting from harm  
22 (including the loss of earnings or other benefits re-  
23 lated to employment, medical expense loss, replace-  
24 ment services loss, loss due to death, burial costs,  
25 and loss of business or employment opportunities) to

1 the extent recovery for such loss is allowed under ap-  
2 plicable State law.

3 (4) ELIGIBLE INDIVIDUALS.—The term “eligi-  
4 ble individuals” means an individual determined to  
5 be eligible for compensation under section 5(c).

6 (5) NONECONOMIC LOSSES.—The term “non-  
7 economic losses” means losses for physical and emo-  
8 tional pain, suffering, inconvenience, physical im-  
9 pairment, mental anguish, disfigurement, loss of en-  
10 joyment of life, loss of society and companionship,  
11 loss of consortium (other than loss of domestic serv-  
12 ice), hedonic damages, injury to reputation, and all  
13 other nonpecuniary losses of any kind or nature.

14 (6) SPECIAL MASTER.—The term “Special Mas-  
15 ter” means the Special Master appointed under sec-  
16 tion 404(a) of the September 11th Victim Com-  
17 pensation Fund of 2001 (title IV of the Air Trans-  
18 portation Safety and System Stabilization Act (Pub-  
19 lic Law 107–42; 115 Stat. XX)).

20 **SEC. 4. PURPOSE.**

21 It is the purpose of this Act to provide compensation  
22 to any individual (or relatives of a deceased individual)  
23 who was physically injured or killed as a result of the  
24 bombing of the Murrah Federal Building in Oklahoma  
25 City, Oklahoma, on April 19, 1995.

1 **SEC. 5. ADMINISTRATION.**

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

4 (1) administer the compensation program es-  
5 tablished under this Act;

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

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

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

15 **SEC. 6. DETERMINATION OF ELIGIBILITY FOR COMPENSA-**  
16 **TION.**

17 (a) FILING OF CLAIMS.—

18 (1) IN GENERAL.—A claimant may file a claim  
19 for compensation under this Act with the Special  
20 Master. The claim shall be on the form developed  
21 under paragraph (2) and shall state the factual basis  
22 for eligibility for compensation and the amount of  
23 compensation sought.

24 (2) CLAIM FORM.—

25 (A) IN GENERAL.—The Special Master  
26 shall develop a claim form that claimants shall

1 use when submitting claims under paragraph  
2 (1). The Special Master shall ensure that such  
3 form can be filed electronically, if determined to  
4 be practicable.

5 (B) CONTENTS.—The form developed  
6 under subparagraph (A) shall request—

7 (i) information from the claimant con-  
8 cerning the physical harm that the claim-  
9 ant suffered, or in the case of a claim filed  
10 on behalf of a decedent information con-  
11 firming the decedent's death, as a result of  
12 the bombing of the Murrah Federal Build-  
13 ing in Oklahoma City, Oklahoma, on April  
14 19, 1995;

15 (ii) information from the claimant  
16 concerning any possible economic and non-  
17 economic losses that the claimant suffered  
18 as a result of such bombings; and

19 (iii) information regarding collateral  
20 sources of compensation the claimant has  
21 received or is entitled to receive as a result  
22 of such bombings.

23 (3) LIMITATION.—No claim may be filed under  
24 paragraph (1) after the date that is 2 years after

1 the date on which regulations are promulgated  
2 under section 8.

3 (b) REVIEW AND DETERMINATION.—

4 (1) REVIEW.—The Special Master shall review  
5 a claim submitted under subsection (a) and  
6 determine—

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

9 (B) with respect to a claimant determined  
10 to be an eligible individual—

11 (i) the extent of the harm to the  
12 claimant, including any economic and non-  
13 economic losses; and

14 (ii) the amount of compensation to  
15 which the claimant is entitled based on the  
16 harm to the claimant, the facts of the  
17 claim, and the individual circumstances of  
18 the claimant.

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

22 (3) DETERMINATION.—Not later than 120 days  
23 after that date on which a claim is filed under sub-  
24 section (a), the Special Master shall complete a re-  
25 view, make a determination, and provide written no-

1        tice to the claimant, with respect to the matters that  
2        were the subject of the claim under review. Such a  
3        determination shall be final and not subject to judi-  
4        cial review.

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

7            (A) the right to be represented by an at-  
8        torney;

9            (B) the right to present evidence, including  
10       the presentation of witnesses and documents;  
11       and

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

14        (c) ELIGIBILITY.—

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

19            (A) is an individual described in paragraph  
20       (2); and

21            (B) meets the requirements of paragraph  
22       (3).

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

1 (A) a citizen of the United States or legal  
2 permanent resident who—

3 (i) was present at the Murrah Federal  
4 Building or within a two block radius of  
5 the Murrah Federal Building, at the time,  
6 or in the immediate aftermath, of the  
7 bombing of the Murrah Federal Building  
8 in Oklahoma City, Oklahoma, on April 19,  
9 1995; and

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

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

16 (3) REQUIREMENTS.—

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

20 (B) LIMITATION ON CIVIL ACTION.—

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

1 as a result of the bombing of the Murrah  
2 Federal Building in Oklahoma City, Okla-  
3 homa, on April 19, 1995. The preceding  
4 sentence does not apply to a civil action to  
5 recover collateral source obligations or pu-  
6 nitive damages.

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. 7. 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. 8. 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. 9. 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.

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