Committee on Civil Service and Labor

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**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION**

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**COMMITTEE ON CIVIL SERVICE AND LABOR**

Hon. I. Daneek Miller, *Chair*

**July 22, 2019**

**Proposed Res. No. 897-A:** By Council Members Miller, Chin, Borelli, Richards, Treyger, Cohen, Levine, Yeger, Deutsch, Brannan, Vallone, Powers, Rosenthal and Holden

**Title:** Resolution calling on Congress to pass, and the President to sign, the "Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act" (H.R.1327/S.546), which would fully finance and extend authorization for the September 11th Victim Compensation Fund until fiscal year 2092

**Introduction**

On July 22, 2019, the Committee on Civil Service and Labor, chaired by Council Member I. Daneek Miller, will hold a hearing and vote on Proposed Resolution Number 897-A.

Proposed Res. No. 897-A, introduced by Council Member Miller, is a resolution calling on Congress to pass, and the President to sign, the "Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act" (H.R.1327/S.546), which would fully finance and extend authorization for the September 11th Victim Compensation Fund until fiscal year 2092.

**Background**

On September 11, 2001, 19 terrorists, associated with the Islamic extremist group al-Qaeda, perpetrated a series of airline hijackings and suicide attacks against New York City, Washington, D.C, and Shanksville, Pennsylvania that have been named the deadliest terrorist attacks on American soil in United States’ history.[[1]](#footnote-1) These attacks directly caused a total of 2,977 deaths, with an indirect death and injury toll still being calculated.[[2]](#footnote-2) The events of 9/11 triggered an enormous response from the United States to terrorism across the globe, and influenced the start and perpetuation of the U.S.’ wars in Afghanistan and Iraq.[[3]](#footnote-3)

The 9/11 terrorist attacks in New York City left hundreds of thousands of people exposed or potentially exposed to dust, particulates, and other environmental contaminants on that day, and for months and years following.[[4]](#footnote-4) It is estimated that 2,000 tons of asbestos fibers were released into the air by the collapse of the Twin Towers, with buildings next to Ground Zero having an asbestos level 112,000 times above the legal limit.[[5]](#footnote-5) Firefighters, police officers, construction workers, transit workers, volunteers, contractors, and others from across the country came to “Ground Zero”—the colloquial term used to refer to the area where the World Trade Center (WTC) came down—in efforts to aid in the search for survivors and to aid in recovery and clean-up efforts at the site.[[6]](#footnote-6) The work took months and required employees from city, state, and federal agencies working tirelessly to rebuild the area. Following the immediate devastation caused by the attacks, there was concern that the attack could have longer-term consequences for the health of responders, clean-up workers, residents, office workers, school children, and others, with an estimated 410,000 people exposed to the contaminated air within the vicinity of Ground Zero.[[7]](#footnote-7) A growing body of evidence and research suggests that significant physical and mental health conditions, associated with exposure to the disaster, have emerged.

**Funding for 9/11 Victims**

The September 11 Victims Compensation Fund (VCF) was created to provide compensation for any individual or personal representative of a deceased individual who suffered physical harm or was killed as result of the 9/11 attacks or the debris removal effort that took place in the immediate aftermath of the crashes. The original VCF operated from 2001 to 2004.[[8]](#footnote-8) From 2001 to 2003, the fund received 7,408 claim submissions and awards were made in 5,560 of those cases, totaling over $7 billion.[[9]](#footnote-9) Additionally, the fund received 2,963 death claims and funds were distributed in 2,880 of these cases with an average award of $2 million, and as high as $7 million.[[10]](#footnote-10)

In 2011, pursuant to the Zadroga Act, the VCF re-opened for a period of five years, ending in October 2016. In 2015, the reauthorization of the Zadroga Act included an extension of the VCF.[[11]](#footnote-11) The new law extends the VCF for five years, allowing individuals to submit claims until 2020. Since its re-opening in 2011, the VCF has received 37,652 total eligibility forms and of that, 20,391 claims have been approved.[[12]](#footnote-12)

A notice by Rupa Bhattacharyya, the special master of the VCF, was published concerning the risk of the fund running out of money. The fund currently has $7.4 billion allocated.[[13]](#footnote-13) Further, the fund had paid out $4.3 billion on 32,689 claims as of August 31, 2018, but more claims are anticipated, raising the possibility that not enough money has been set aside for victims.[[14]](#footnote-14) A bipartisan group of federal legislators from New York has urged their colleagues in Congress to permanently fund the VCF.[[15]](#footnote-15) Specifically, they have introduced legislation S.546/H.R.1327, “Never Forget the Heroes: Permanent Reauthorization of the September 11th Victim Compensation Fund Act,” which would respond to any shortfalls in funding by permanently authorizing the VCF.[[16]](#footnote-16) Senator Kirsten Gillibrand (D-NY) is sponsoring the legislation in the Senate along with fellow Senators Charles Schumer (D-NY) and Cory Gardner (R-CO). Sponsorship in the House is being led by New York City Democrats Jerrold Nadler and Carolyn Maloney and Long Island Republican Peter King.[[17]](#footnote-17)

The federal legislation would provide funds through FY2090 and also modify the VCF:

* to allow claims to be filed until October 2089,
* to require VCF policies and procedures to be reassessed at least once every five years (currently, at least once annually),
* to require claimants to be paid for the amount by which a claim was reduced on the basis of insufficient funding,
* to remove the cap on noneconomic damages in certain circumstances, and
* to adjust the annual limit on economic loss compensation for inflation.[[18]](#footnote-18)

The legislation passed in the United States House of Representatives by a 402-12 vote on Friday, July 12. Once passed, the bill was amended, being renamed the “Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Reauthorization of the September 11th Victim Compensation Fund Act,” and fully financing and extending authorization for the September 11th Victim Compensation Fund until fiscal year 2092. The bill now awaits a vote in the Senate. This federal legislation is needed as the VCF is experiencing a funding shortfall and must reduce payments for pending and future claims, by at least 50 percent, as the number of illnesses being suffered by 9/11 victims has dramatically increased in the last few years.[[19]](#footnote-19)

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Proposed Res. No. 897-A

..Title

Resolution calling on Congress to pass, and the President to sign, the “Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act” (H.R.1327/S.546), which would fully finance and extend authorization for the September 11th Victim Compensation Fund until fiscal year 2092

..Body

By Council Members Miller, Chin, Borelli, Richards, Treyger, Cohen, Levine, Yeger, Deutsch, Brannan, Vallone, Powers, Rosenthal and Holden

Whereas, The September 11th Victim Compensation Fund (VCF) was created in order to provide compensation for any individual who suffered physical harm or to the family of those who have died as a result of the terrorist-related attacks of September 11, 2001 (9/11), or the recovery/cleanup efforts that took place in the aftermath of these attacks; and

Whereas, The original VCF was created in 2001 with no cap in funding and closed in 2004, paying over $7.049 billion to surviving family members of 2,880 people who died in the attacks and to 2,680 claimants who were injured in the attacks or rescue efforts; and

Whereas, After the original VCF closed in 2004, despite evidence of the growing health impacts that 9/11 had on responders, survivors and surrounding communities throughout the nation, it took years of advocacy to compel the federal government to act; and

Whereas, In October 2011, the VCF was finally reopened when former President Obama signed into law the James Zadroga 9/11 Health and Compensation Act of 2010 (Zadroga Act), which enabled the VCF to accept claims until October 2016, expanded the VCF’s eligibility criteria to include those who participated in the debris removal efforts directly after 9/11, provided the VCF a limited appropriation of $2.775 billion (with $875 million available within the first five years) to cover compensation and administrative costs and created the World Trade Center Health Program (WTCHP) to provide medical treatment and monitoring to injured and sick 9/11 survivors and responders; and

Whereas, In December 2015, the Zadroga Act was reauthorized by Congress with bi-partisan support, which allowed the VCF to take claims until December 2020, directed the VCF to pay certain past claims, allowed the VCF to implement specific changes to policies and procedures and extended the WTCHP’s authorization for 75 years; and

Whereas, Notably, according to a recent message by the head of the VCF, Special Master Rupa Bhattacharyaa, since October 2011, the VCF has awarded nearly $5 billion in original and amended determinations for more than 21,000 claims, with 2018 alone, having compensation determinations total almost $1.5 billion; and

Whereas, This leaves only about $2.375 billion of the $7.375 billion appropriated funding available to compensate the almost 20,000 pending claims and the thousands of anticipated future claims filed by December 2020; and

Whereas, Thus, in order to accommodate this sheer number of claims, the VCF has indicated through its Seventh Annual Status Report and Third Annual Reassessment of Policies and Procedures (February 2019 VCF Report), that any claim or amendment filed for review on or before February 1, 2019 will be reduced by 50%, while any claim or amendment filed on or after February 2, 2019 be reduced by 70%; and

Whereas, As an additional setback, the VCF’s authorization is set to expire in December 2020, which will leave thousands of people nationwide who were impacted by 9/11 with no place to seek compensation or help, including responders and survivors with developing physical and mental illnesses; and

Whereas, The lack of funding for the VCF has resulted in the reduction of awards to claimants and its set expiration date, which many have openly criticized, citing that the VCF’s compensation offers integral support for thousands impacted by 9/11 and should not expire; and

Whereas, The decision to reduce awards to claimants will particularly impact New York City, as The Mesothelioma Center estimated that 410,000 people were exposed to toxic contaminants within the area near the World Trade Center, indicating that New Yorkers have been heavily impacted by 9/11 and could have a higher propensity to file claims within the VCF; and

Whereas, For example, the February 2019 VCF Report shows that, as of December 31, 2018 (not accounting for the claims submitted to the original VCF of 2001), specific categories of New York City claimants have filed a tremendous number of VCF claims already, with the categories of: “Responder-NYC” having 16,525 of the total 17,449 eligible claims awarded with about $3.849 billion; “Non-Responder NYC-cleaning or maintenance work” and “Non-Responder NYC-other capacity” having 3,364 of the total 3,629 eligible claims awarded with about $715 million; and “Residents within NYC Exposure Zone” having 471 of the total 513 eligible claims awarded with about $102 million; and

Whereas, Notably, the impact of 9/11 is widespread, as 9/11 responders and survivors hail from all 50 states in the United States and reside in all but one congressional district; and

Whereas, In efforts to ensure that all those who filed or intend to file a VCF claim, including many in New York City, receive the compensation that they need to deal with any current and/or future illnesses, the “Never Forget the Heroes: Permanent Authorization of the September 11th Victim Compensation Fund Act” (H.R.1327/S.546) was introduced at the federal level in February 2019; and

Whereas, H.R.1327, introduced by Representative Carolyn B. Maloney, and S.546, introduced by Senator Kristen E. Gillibrand, originally would have extended authorization for the VCF through fiscal year 2090, however, on July 12, 2019, H.R.1327 passed the House of Representatives, having since been renamed the “Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act” and amended to fund the VCF through fiscal year 2092; and

Whereas, S.546, under the same name and without amendment since introduction, is still awaiting a vote by the Senate; and

Whereas, The adoption of this legislation will ensure that 9/11 responders, survivors and

families receive the compensation they deserve and need for years to come; now, therefore, be it

Resolved, That the Council of the City of New York calls on Congress to pass, and the President to sign, the “Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act” (H.R.1327/S.546), which would fully finance and extend authorization for the September 11th Victim Compensation Fund until fiscal year 2092.

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