To provide for the establishment of a COVID–19 Compensation Fund to compensate claimants for harms resulting from suffering from COVID–19, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. ESPAILLAT introduced the following bill; which was referred to the Committee on

A BILL

To provide for the establishment of a COVID–19 Compensation Fund to compensate claimants for harms resulting from suffering from COVID–19, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “COVID–19 Victims Compensation Fund Act”.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:
(1) **CLAIMANT.**—The term “claimant” means an individual filing a claim for compensation under this Act.

(2) **COLLATERAL SOURCE.**—The term “collateral source” means all compensation other than compensation under this Act, including life insurance, pension funds, death benefit programs, and payments by Federal, State, local, Tribal, or territorial governments.

(3) **ECONOMIC LOSS.**—The term “economic loss” means any pecuniary loss (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) resulting from harm due to COVID–19 to the extent recovery for such loss is allowed under applicable Federal, State, local, Tribal, or territorial law.

(4) **NONECONOMIC LOSSES.**—The term “noneconomic losses” means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic serv-
ice), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(5) **SPECIAL MASTER.**—The term “Special Master” means the Special Master appointed by the Secretary under section 3.

(6) **PLACE OF RESIDENCE.**—The term “place of residence” means the physical location or locations at which the claimant resided or was residing during the eligibility period.

(7) **ELIGIBILITY PERIOD.**—The term “eligibility period” means any time during which any Federal, State, Tribal, territorial, or local COVID–19 related emergency order or declaration (or equivalent) is or was in effect.

**SEC. 3. ADMINISTRATION.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services, acting through a Special Master appointed by the Secretary, shall—

(1) administer the compensation program established under this Act;

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

(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Master under this Act.
(b) APPOINTMENT OF SPECIAL MASTER AND DEPUTY SPECIAL MASTERS.—The Secretary may appoint a Special Master and no more than two Deputy Special Masters without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the Secretary. The Secretary shall fix the annual salary of the Special Master and the Deputy Special Masters.

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

SEC. 4. DETERMINATION OF ELIGIBILITY FOR COMPENSATION.

(a) FILING OF CLAIM.—

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

(2) CLAIM FORM.—

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

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

(i) information from the claimant concerning the harm that the claimant suffered as a result of COVID–19, or in the case of a claim filed on behalf of a decedent, information confirming the decedent’s death, as a result of COVID–19;

(ii) information from the claimant concerning any possible economic and non-economic losses that the claimant suffered as a result of COVID–19 or that was caused by the death of the decedent from COVID–19; and

(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of COVID–19.

(3) LIMITATION.—No claim may be filed under paragraph (1) after the date that is 5 years after the end of the eligibility period.

(b) REVIEW AND DETERMINATION.—
(1) REVIEW.—The Special Master shall review a claim submitted under subsection (a) and determine—

(A) whether the claimant is an eligible individual under subsection (c); and

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

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

(ii) subject to paragraph (7), the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

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

(3) DETERMINATION.—A determination under this subsection shall be final and not subject to judicial review.

(4) RIGHTS OF CLAIMANT.—A claimant in a review under paragraph (1) shall have—
(A) the right to be represented by an attorney or other representative;

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

and

(C) any other due process rights determined appropriate by the Special Master.

(5) **NO PUNITIVE DAMAGES.**—The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this Act.

(6) **COLLATERAL COMPENSATION.**—The Special Master shall reduce the amount of compensation determined under paragraph (1) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the claimant suffering from COVID–19.

(7) **LIMITATIONS ON CLAIMS.**—Noneconomic losses shall not exceed such limit as the Special Master may impose.

(c) **ELIGIBILITY.**—

(1) **IN GENERAL.**—A claimant or decedent shall be determined to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant or decedent—
(A)(i) was permanently residing in the United States, without regard to whether the claimant or decedent had any lawful status under the immigration laws (as such terms are defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)), during all or a portion of the eligibility period; or

(ii) was present in the United States during all or a portion of the eligibility period and a family member of an individual so residing;

(B) expressed symptoms consistent with COVID–19, including those with laboratory confirmations or diagnosis by a health care provider, or for whom there is or was an absence of an alternate diagnosis that explains claimant’s or decedent’s symptoms;

(C) suffered economic loss; and

(D) meets the requirements of paragraph (2).

(2) SINGLE CLAIM.—Not more than one claim may be submitted under this Act by an individual or on behalf of a deceased individual. If the claimant dies during the pendency of a claim, the decedent’s family or other individual representing the decedent
may continue the claimant’s claim with added ex-

penses related to the claimant’s death, as needed.

SEC. 5. ASSISTANCE TO CLAIMANTS.

The Special Master will establish an office to provide

assistance to all claimants in submitting claims.

SEC. 6. PAYMENTS TO ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Subject to the limitations under

subsection (d), not later than 20 days after the date on

which a determination is made by the Special Master re-

garding the amount of compensation due a claimant under

this Act, the Special Master shall authorize payment to

such claimant of the amount determined with respect to

the claimant.

(b) FUNDING.—

(1) IN GENERAL.—The Secretary is authorized

to accept such amounts as may be contributed by in-
dividuals, business concerns, or other entities to

carry out this Act, under such terms and conditions

as the Secretary may impose.

(2) USE OF SEPARATE ACCOUNT.—In making

payments under this section, amounts contained in

any account containing funds provided under para-

graph (1) shall be used prior to using appropriated

amounts.
(c) **Development of Agency Policies and Procedures.**—Not later than 120 days after the date of enactment the Special Master shall develop agency policies and procedures that meet the requirements including policies and procedures for presumptive award schedules, administrative expenses, and related internal memoranda.

(d) **Attorney Fees.**—The Special Master shall have the sole discretion to determine reasonable compensation for services rendered for attorney fees for services rendered, if any.

**Sec. 7. Regulations.**

Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Special Master, shall promulgate regulations to carry out this Act, including regulations with respect to—

1. forms to be used in submitting claims under this Act;
2. the information to be included in such forms;
3. procedures for hearing and the presentation of evidence;
4. procedures to assist an individual in filing and pursuing claims under this Act; and
5. other matters determined appropriate by the Secretary.
SEC. 8. RIGHT OF SUBROGATION.

The United States shall have the right of subrogation with respect to any claim paid by the United States, subject to the limitation described in this Act.

SEC. 9. VICTIM COMPENSATION FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the “COVID–19 Compensation Fund”, consisting of amounts deposited into such fund under subsection (b).

(b) AVAILABILITY OF FUNDS.—Amounts deposited into the COVID–19 Compensation Fund shall be available, without further appropriation, to the Special Master to provide compensation.

(c) TERMINATION.—The COVID–19 Compensation Fund shall be permanently closed on the date that is 1 year after the Special Master determines that no additional claims may be filed.

SEC. 10. APPROPRIATION.

There is authorized to be appropriated for purposes of carrying out this Act such sums as may be necessary for fiscal year 2020 and each fiscal year thereafter through fiscal year 2026, to remain available until expended.