

111TH CONGRESS  
1ST SESSION

# S. 1334

To amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 24, 2009

Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. MENENDEZ, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “James Zadroga 9/11 Health and Compensation Act of  
6 2009”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

Sec. 101. World Trade Center Health Program.

“TITLE XXXI—WORLD TRADE CENTER HEALTH PROGRAM

“Subtitle A—Establishment of Program; Advisory and Steering Committees

“Sec. 3101. Establishment of World Trade Center Health Program within NIOSH.

“Sec. 3102. WTC Health Program Scientific/Technical Advisory Committee.

“Sec. 3103. WTC Health Program Steering Committees.

“Sec. 3104. Community education and outreach.

“Sec. 3105. Uniform data collection.

“Sec. 3106. Centers of excellence.

“Sec. 3107. Entitlement authorities.

“Sec. 3108. Definitions.

“Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

“PART 1—FOR WTC RESPONDERS

“Sec. 3111. Identification of eligible WTC responders and provision of WTC-related monitoring services.

“Sec. 3112. Treatment of certified eligible WTC responders for WTC-related health conditions.

“PART 2—COMMUNITY PROGRAM

“Sec. 3121. Identification and initial health evaluation of eligible WTC community members.

“Sec. 3122. Followup monitoring and treatment of certified eligible WTC community members for WTC-related health conditions.

“Sec. 3123. Followup monitoring and treatment of other individuals with WTC-related health conditions.

“PART 3—NATIONAL ARRANGEMENT FOR BENEFITS FOR ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK

“Sec. 3131. National arrangement for benefits for eligible individuals outside New York.

“Subtitle C—Research Into Conditions

“Sec. 3141. Research regarding certain health conditions related to September 11 terrorist attacks in New York City.

“Subtitle D—Programs of the New York City Department of Health and Mental Hygiene

“Sec. 3151. World Trade Center Health Registry.

“Sec. 3152. Mental health services.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF  
2001

Sec. 201. Definitions.

Sec. 202. Extended and expanded eligibility for compensation.

Sec. 203. Requirement to update regulations.

Sec. 204. Limited liability for certain claims.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Thousands of rescue workers who responded  
4 to the areas devastated by the terrorist attacks of  
5 September 11, 2001, local residents, office and area  
6 workers, and school children continue to suffer sig-  
7 nificant medical problems as a result of com-  
8 promised air quality and the release of other toxins  
9 from the attack sites.

10 (2) In a September 2006 peer-reviewed study  
11 conducted by the World Trade Center Medical Moni-  
12 toring Program, of 9,500 World Trade Center re-  
13 sponders, almost 70 percent of World Trade Center  
14 responders had a new or worsened respiratory symp-  
15 tom that developed during or after their time work-  
16 ing at the World Trade Center; among the respon-  
17 ders who were asymptomatic before September 11,  
18 2001, 61 percent developed respiratory symptoms  
19 while working at the World Trade Center; close to  
20 60 percent still had a new or worsened respiratory  
21 symptom at the time of their examination; one-third  
22 had abnormal pulmonary function tests; and severe

1 respiratory conditions including pneumonia were sig-  
2 nificantly more common in the 6 months after Sep-  
3 tember 11, 2001, than in the prior 6 months.

4 (3) An April 2006 study documented that, on  
5 average, a New York City firefighter who responded  
6 to the World Trade Center has experienced a loss of  
7 12 years of lung capacity.

8 (4) A peer-reviewed study of residents who lived  
9 near the World Trade Center titled “The World  
10 Trade Center Residents’ Respiratory Health Study:  
11 New Onset Respiratory Symptoms and Pulmonary  
12 Function”, found that data demonstrated a threefold  
13 increase in new-onset, persistent lower respiratory  
14 symptoms in residents near the former World Trade  
15 Center as compared to a control population.

16 (5) Previous research on the health impacts of  
17 the devastation caused by the September 11, 2001,  
18 terrorist attacks has shown relationships between  
19 the air quality from Ground Zero and a host of  
20 health impacts, including lower pregnancy rates,  
21 higher rates of respiratory and lung disorders, and  
22 a variety of post-disaster mental health conditions  
23 (including posttraumatic stress disorder) in workers  
24 and residents near Ground Zero.

1           (6) A variety of tests conducted by independent  
2 scientists have concluded that significant World  
3 Trade Center (WTC) contamination settled in indoor  
4 environments surrounding the disaster site. The En-  
5 vironmental Protection Agency's (EPA) cleanup pro-  
6 grams for indoor residential spaces, in 2003 and  
7 2005, though limited, are an acknowledgment that  
8 indoor contamination continued after the WTC at-  
9 tacks.

10           (7) At the request of the Department of En-  
11 ergy, the Davis DELTA Group at the University of  
12 California conducted outdoor dust sampling in Octo-  
13 ber 2001 at Varick and Houston Streets (approx-  
14 imately 1.2 miles north of Ground Zero) and found  
15 that the contamination from the World Trade Cen-  
16 ter "outdid even the worst pollution from the Ku-  
17 wait oil fields fires". Further, the United States Ge-  
18 ological Survey (USGS) reported on November 27,  
19 2001, that dust samples collected from indoor sur-  
20 faces in this area registered at levels that were "as  
21 caustic as liquid drain cleaners".

22           (8) According to both the EPA's own Inspector  
23 General's (EPA IG) report of August 21, 2003, and  
24 the Governmental Accountability Offices's (GAO) re-  
25 port of September 2007, no comprehensive program

1 has ever been conducted in order to characterize the  
2 full extent of WTC contamination, and therefore the  
3 full impact of that contamination—geographic or  
4 otherwise—remains unknown.

5 (9) Such reports found that there has never  
6 been a comprehensive program to remediate WTC  
7 toxins from indoor spaces. Thus, area residents,  
8 workers, and students may continue to be exposed to  
9 WTC contamination in their homes, workplaces, and  
10 schools.

11 (10) Because of the failure to release federally  
12 appropriated funds for community care, a lack of  
13 sufficient outreach, the fact that many community  
14 members are receiving care from physicians outside  
15 the current City-funded World Trade Center Envi-  
16 ronmental Health Center program and thus fall out-  
17 side data collection efforts, and other factors, the  
18 number of community members being treated at the  
19 World Trade Center Environmental Health Center  
20 underrepresents the total number in the community  
21 that have been affected by exposure to Ground Zero  
22 toxins.

23 (11) Research by Columbia University's Center  
24 for Children's Environmental Health has shown neg-  
25 ative health effects on babies born to women living

1 within 2 miles of the World Trade Center in the  
2 month following September 11, 2001.

3 (12) Federal funding allocated for the moni-  
4 toring of rescue workers' health is not sufficient to  
5 ensure the long-term study of health impacts of Sep-  
6 tember 11, 2001.

7 (13) A significant portion of those who have de-  
8 veloped health problems as result of exposures to  
9 airborne toxins or other hazards resulting from the  
10 September 11, 2001, attacks on the World Trade  
11 Center have no health insurance, have lost their  
12 health insurance as a result of the attacks, or have  
13 inadequate health insurance.

14 (14) The Federal program to provide medical  
15 treatments to those who responded to the September  
16 11, 2001, aftermath, and who continue to experience  
17 health problems as a result, was finally established  
18 more than five years after the attacks, but has no  
19 certain long-term funding.

20 (15) Rescue workers and volunteers seeking  
21 workers' compensation have reported that their ap-  
22 plications have been denied, delayed for months, or  
23 redirected, instead of receiving assistance in a timely  
24 and supportive manner.

1           (16) A February 2007 report released by the  
2 City of New York estimated that approximately  
3 410,000 people were the most heavily exposed to the  
4 environmental hazards and trauma of the September  
5 11, 2001, terrorist attacks. More than 30 percent of  
6 the Fire Department of the City of New York first  
7 responders were still experiencing some respiratory  
8 symptoms more than five years after the attacks  
9 and, according to the report, 59 percent of those  
10 seen by the WTC Environmental Health Center at  
11 Bellevue Hospital (which serves community mem-  
12 bers) are without insurance and 65 percent have in-  
13 comes of less than \$15,000 per year. The report also  
14 found a need to continue and expand mental health  
15 services.

16           (17) Since the 5th anniversary of the attack  
17 (September 11, 2006), hundreds of workers a month  
18 have been signing up with the monitoring and treat-  
19 ment programs.

20           (18) In April 2008, the Department of Health  
21 and Human Services reported to Congress that in  
22 fiscal year 2007 11,359 patients received medical  
23 treatment in the existing WTC Responder Medical  
24 and Treatment program for WTC-related health  
25 problems, and that number of responders who need



1 treatment and the severity of health problems is ex-  
2 pected to increase.

3 (19) The September 11 Victim Compensation  
4 Fund of 2001 was established to provide compensa-  
5 tion to individuals who were physically injured or  
6 killed as a result of the terrorist-related aircraft  
7 crashes of September 11, 2001.

8 (20) The deadline for filing claims for com-  
9 pensation under the Victim Compensation Fund was  
10 December 22, 2003.

11 (21) Some individuals did not know they were  
12 eligible to file claims for compensation for injuries or  
13 did not know they had suffered physical harm as a  
14 result of the terrorist-related aircraft crashes until  
15 after the December 22, 2003, deadline.

16 (22) Further research is needed to evaluate  
17 more comprehensively the extent of the health im-  
18 pacts of September 11, 2001, including research for  
19 emerging health problems such as cancer, which  
20 have been predicted.

21 (23) Research is needed regarding possible  
22 treatment for the illnesses and injuries of September  
23 11, 2001.

24 (24) The Federal response to medical and fi-  
25 nancial issues arising from the September 11, 2001,

1 response efforts needs a comprehensive, coordinated  
2 long-term response in order to meet the needs of all  
3 the individuals who were exposed to the toxins of  
4 Ground Zero and are suffering health problems from  
5 the disaster.

6 (25) The failure to extend the appointment of  
7 Dr. John Howard as Director of the National Insti-  
8 tute for Occupational Safety and Health in July  
9 2008 is not in the interests of the administration of  
10 such Institute nor the continued operation of the  
11 World Trade Center Medical Monitoring and Treat-  
12 ment Program which he has headed, and the Sec-  
13 retary of Health and Human Services should recon-  
14 sider extending such appointment.

15 **TITLE I—WORLD TRADE CENTER**  
16 **HEALTH PROGRAM**

17 **SEC. 101. WORLD TRADE CENTER HEALTH PROGRAM.**

18 The Public Health Service Act (42 U.S.C. 201 et  
19 seq.) is amended by adding at the end the following new  
20 title:



1           “(1) MEDICAL MONITORING FOR RESPOND-  
2           ERS.—Medical monitoring under section 3111, in-  
3           cluding clinical examinations and long-term health  
4           monitoring and analysis for individuals who were  
5           likely to have been exposed to airborne toxins that  
6           were released, or to other hazards, as a result of the  
7           September 11, 2001, terrorist attacks on the World  
8           Trade Center.

9           “(2) INITIAL HEALTH EVALUATION FOR COM-  
10          MUNITY MEMBERS.—An initial health evaluation  
11          under section 3121, including an evaluation to deter-  
12          mine eligibility for followup monitoring and treat-  
13          ment.

14          “(3) FOLLOW-UP MONITORING AND TREAT-  
15          MENT FOR WTC-RELATED CONDITIONS FOR RE-  
16          SPONDERS AND COMMUNITY MEMBERS.—Provision  
17          under sections 3112, 3122, and 3123 of follow-up  
18          monitoring and treatment and payment, subject to  
19          the provisions of subsection (d), for all medically  
20          necessary health and mental health care expenses  
21          (including necessary prescription drugs) of individ-  
22          uals with a WTC-related health condition.

23          “(4) OUTREACH.—Establishment under section  
24          3104 of an outreach program to potentially eligible  
25          individuals concerning the benefits under this title.

1           “(5) UNIFORM DATA COLLECTION.—Collection  
2           under section 3105 of health and mental health data  
3           on individuals receiving monitoring or treatment  
4           benefits, using a uniform system of data collection.

5           “(6) RESEARCH ON WTC CONDITIONS.—Estab-  
6           lishment under subtitle C of a research program on  
7           health conditions resulting from the September 11,  
8           2001, terrorist attacks on the World Trade Center.

9           “(c) NO COST-SHARING.—Monitoring and treatment  
10          benefits and initial health evaluation benefits are provided  
11          under subtitle B without any deductibles, copayments, or  
12          other cost-sharing to an eligible WTC responder or any  
13          eligible WTC community member.

14          “(d) PAYOR.—

15                 “(1) IN GENERAL.—Except as provided in para-  
16                 graphs (2) and (3), the cost of monitoring and treat-  
17                 ment benefits and initial health evaluation benefits  
18                 provided under subtitle B shall be paid for by the  
19                 WTC program.

20                 “(2) WORKERS’ COMPENSATION PAYMENT.—

21                         “(A) IN GENERAL.—Except as provided in  
22                         subparagraph (B), payment for treatment  
23                         under subtitle B of a WTC-related health condi-  
24                         tion in an individual that is work-related shall  
25                         be reduced or recouped to the extent that the

1 Secretary determines that payment has been  
2 made, or can reasonably be expected to be  
3 made, under a workers' compensation law or  
4 plan of the United States or a State, or other  
5 work-related injury or illness benefit plan of the  
6 employer of such individual, for such treatment.  
7 The provisions of clauses (iii), (iv), (v), and (vi)  
8 of paragraph (2)(B) of section 1862(b) of the  
9 Social Security Act (42 U.S.C. 1395y(b)(2))  
10 and paragraph (3) of such section shall apply to  
11 the recoupment under this paragraph of a pay-  
12 ment to the WTC program with respect to a  
13 workers' compensation law or plan, or other  
14 work-related injury or illness plan of the em-  
15 ployer involved, and such individual in the same  
16 manner as such provisions apply to the reim-  
17 bursement of a payment under section  
18 1862(b)(2) of such Act to the Secretary, with  
19 respect to such a law or plan and an individual  
20 entitled to benefits under title XVIII of such  
21 Act.

22 “(B) EXCEPTION.—If the WTC Program  
23 Administrator certifies that the City of New  
24 York has contributed the matching contribution  
25 required under section 3106(a)(3) for a 12-

1 month period (specified by the WTC Program  
2 Administrator), subparagraph (A) shall not  
3 apply for that 12-month period with respect to  
4 a workers' compensation law or plan, including  
5 line of duty compensation, to which the City is  
6 obligated to make payments.

7 “(3) HEALTH INSURANCE COVERAGE.—

8 “(A) IN GENERAL.—In the case of an indi-  
9 vidual who has a WTC-related health condition  
10 that is not work-related and has health cov-  
11 erage for such condition through any public or  
12 private health plan, the provisions of section  
13 1862(b) of the Social Security Act (42 U.S.C.  
14 1395y(b)) shall apply to such a health plan and  
15 such individual in the same manner as they  
16 apply to a group health plan and an individual  
17 entitled to benefits under title XVIII of such  
18 Act pursuant to section 226(a). Any costs for  
19 items and services covered under such plan that  
20 are not reimbursed by such health plan, due to  
21 the application of deductibles, copayments, coin-  
22 surance, other cost-sharing, or otherwise, are  
23 reimbursable under this title to the extent that  
24 they are covered under the WTC program.

1           “(B) RECOVERY BY INDIVIDUAL PRO-  
2           VIDERS.—Nothing in subparagraph (A) shall be  
3           construed as requiring an entity providing mon-  
4           itoring and treatment under this title to seek  
5           reimbursement under a health plan with which  
6           the entity has no contract for reimbursement.

7           “(4) WORK-RELATED DESCRIBED.—For the  
8           purposes of this subsection, a WTC-related health  
9           condition shall be treated as a condition that is  
10          work-related if—

11           “(A) the condition is diagnosed in an eligi-  
12          ble WTC responder, or in an individual who  
13          qualifies as an eligible WTC community mem-  
14          ber on the basis of being a rescue, recovery, or  
15          clean-up worker; or

16           “(B) with respect to the condition the indi-  
17          vidual has filed and had established a claim  
18          under a workers’ compensation law or plan of  
19          the United States or a State, or other work-re-  
20          lated injury or illness benefit plan of the em-  
21          ployer of such individual.

22          “(e) QUALITY ASSURANCE AND MONITORING OF  
23          CLINICAL EXPENDITURES.—

24           “(1) QUALITY ASSURANCE.—The WTC Pro-  
25          gram Administrator, working with the Clinical Cen-



1       ters of Excellence, shall develop and implement a  
2       quality assurance program for the medical moni-  
3       toring and treatment delivered by such Centers of  
4       Excellence and any other participating health care  
5       providers. Such program shall include—

6               “(A) adherence to medical monitoring and  
7               treatment protocols;

8               “(B) appropriate diagnostic and treatment  
9               referrals for participants;

10              “(C) prompt communication of test results  
11              to participants; and

12              “(D) such other elements as the Adminis-  
13              trator specifies in consultation with the Clinical  
14              Centers of Excellence.

15              “(2) FRAUD PREVENTION.—The WTC Program  
16       Administrator shall develop and implement a pro-  
17       gram to review the program’s health care expendi-  
18       tures to detect fraudulent or duplicate billing and  
19       payment for inappropriate services. Such program  
20       shall be similar to current methods used in connec-  
21       tion with the Medicare program under title XVIII of  
22       the Social Security Act. This title is a Federal  
23       health care program (as defined in section 1128B(f)  
24       of such Act) and is a health plan (as defined in sec-

1       tion 1128C(e) of such Act) for purposes of applying  
2       sections 1128 through 1128E of such Act.

3       “(f) WTC PROGRAM ADMINISTRATION.—The WTC  
4 program shall be administered by the Director of the Na-  
5 tional Institute for Occupational Safety and Health, or a  
6 designee of such Director.

7       “(g) ANNUAL PROGRAM REPORT.—

8               “(1) IN GENERAL.—Not later than 6 months  
9 after the end of each fiscal year in which the WTC  
10 program is in operation, the WTC Program Admin-  
11 istrator shall submit an annual report to the Con-  
12 gress on the operations of this title for such fiscal  
13 year and for the entire period of operation of the  
14 program.

15               “(2) CONTENTS OF REPORT.—Each annual re-  
16 port under paragraph (1) shall include the following:

17                       “(A) ELIGIBLE INDIVIDUALS.—Informa-  
18 tion for each clinical program described in para-  
19 graph (3)—

20                               “(i) on the number of individuals who  
21 applied for certification under subtitle B  
22 and the number of such individuals who  
23 were so certified;

24                               “(ii) of the individuals who were cer-  
25 tified, on the number who received medical

1 monitoring under the program and the  
2 number of such individuals who received  
3 medical treatment under the program;

4 “(iii) with respect to individuals so  
5 certified who received such treatment, on  
6 the WTC-related health conditions for  
7 which the individuals were treated; and

8 “(iv) on the projected number of indi-  
9 viduals who will be certified under subtitle  
10 B in the succeeding fiscal year.

11 “(B) MONITORING, INITIAL HEALTH EVAL-  
12 UATION, AND TREATMENT COSTS.—For each  
13 clinical program so described—

14 “(i) information on the costs of moni-  
15 toring and initial health evaluation and the  
16 costs of treatment and on the estimated  
17 costs of such monitoring, evaluation, and  
18 treatment in the succeeding fiscal year;  
19 and

20 “(ii) an estimate of the cost of med-  
21 ical treatment for WTC-related health con-  
22 ditions that have been paid for or reim-  
23 bursed by workers’ compensation, by public  
24 or private health plans, or by the City of  
25 New York under section 3106(a)(3).

1           “(C) ADMINISTRATIVE COSTS.—Informa-  
2           tion on the cost of administering the program,  
3           including costs of program support, data collec-  
4           tion and analysis, and research conducted under  
5           the program.

6           “(D) ADMINISTRATIVE EXPERIENCE.—In-  
7           formation on the administrative performance of  
8           the program, including—

9                   “(i) the performance of the program  
10                  in providing timely evaluation of and treat-  
11                  ment to eligible individuals; and

12                   “(ii) a list of the Clinical Centers of  
13                  Excellence and other providers that are  
14                  participating in the program.

15           “(E) SCIENTIFIC REPORTS.—A summary  
16           of the findings of any new scientific reports or  
17           studies on the health effects associated with  
18           WTC exposures, including the findings of re-  
19           search conducted under section 3141(a).

20           “(F) ADVISORY COMMITTEE REC-  
21           COMMENDATIONS.—A list of recommendations by  
22           the WTC Scientific/Technical Advisory Com-  
23           mittee on additional WTC program eligibility  
24           criteria and on additional WTC-related health  
25           conditions and the action of the WTC Program

1 Administrator concerning each such rec-  
2 ommendation.

3 “(3) SEPARATE CLINICAL PROGRAMS DE-  
4 SCRIBED.—In paragraph (2), each of the following  
5 shall be treated as a separate clinical program of the  
6 WTC program:

7 “(A) FDNY RESPONDERS.—The benefits  
8 provided for eligible WTC responders described  
9 in section 3106(b)(1)(A).

10 “(B) OTHER ELIGIBLE WTC RESPOND-  
11 ERS.—The benefits provided for eligible WTC  
12 responders not described in subparagraph (A).

13 “(C) ELIGIBLE WTC COMMUNITY MEM-  
14 BERS.—The benefits provided for eligible WTC  
15 community members in section 3106(b)(1)(C).

16 “(h) NOTIFICATION TO CONGRESS WHEN REACH 80  
17 PERCENT OF ELIGIBILITY NUMERICAL LIMITS.—The  
18 WTC Program Administrator shall promptly notify the  
19 Congress—

20 “(1) when the number of certifications for eligi-  
21 ble WTC responders subject to the limit established  
22 under section 3111(a)(5) has reached 80 percent of  
23 such limit; and

24 “(2) when the number of certifications for eligi-  
25 ble WTC community members subject to the limit

1 established under section 3121(a)(5) has reached 80  
2 percent of such limit.

3 “(i) GAO REPORT.—Not later than 3 years after the  
4 date of the enactment of the James Zadroga 9/11 Health  
5 and Compensation Act of 2009, the Comptroller General  
6 of the United States shall submit to the Congress a report  
7 on the costs of the monitoring and treatment programs  
8 provided under this title.

9 “(j) NYC RECOMMENDATIONS.—The City of New  
10 York may make recommendations to the WTC Program  
11 Administrator on ways to improve the monitoring and  
12 treatment programs under this title for both eligible WTC  
13 responders and eligible WTC community members.

14 **“SEC. 3102. WTC HEALTH PROGRAM SCIENTIFIC/TECH-**  
15 **NICAL ADVISORY COMMITTEE.**

16 “(a) ESTABLISHMENT.—The WTC Program Admin-  
17 istrator shall establish an advisory committee to be known  
18 as the WTC Health Program Scientific/Technical Advisory  
19 Committee (in this section referred to as the ‘Advisory  
20 Committee’) to review scientific and medical evidence and  
21 to make recommendations to the Administrator on addi-  
22 tional WTC program eligibility criteria and on additional  
23 WTC-related health conditions.

1       “(b) COMPOSITION.—The WTC Program Adminis-  
2 trator shall appoint the members of the Advisory Com-  
3 mittee and shall include at least—

4           “(1) 4 occupational physicians, at least two of  
5 whom have experience treating WTC rescue and re-  
6 covery workers;

7           “(2) 1 physician with expertise in pulmonary  
8 medicine;

9           “(3) 2 environmental medicine or environmental  
10 health specialists;

11          “(4) 2 representatives of eligible WTC respond-  
12 ers;

13          “(5) 2 representatives of WTC community  
14 members;

15          “(6) an industrial hygienist;

16          “(7) a toxicologist;

17          “(8) an epidemiologist; and

18          “(9) a mental health professional.

19       “(c) MEETINGS.—The Advisory Committee shall  
20 meet at such frequency as may be required to carry out  
21 its duties.

22       “(d) REPORTS.—The WTC Program Administrator  
23 shall provide for publication of recommendations of the  
24 Advisory Committee on the public website established for  
25 the WTC program.

1       “(e) AUTHORIZATION OF APPROPRIATIONS.—For the  
2 purpose of carrying out this section, there are authorized  
3 to be appropriated such sums as may be necessary, not  
4 to exceed \$100,000, for each fiscal year beginning with  
5 fiscal year 2009.

6       “(f) DURATION.—Notwithstanding any other provi-  
7 sion of law, the Advisory Committee shall continue in op-  
8 eration during the period in which the WTC program is  
9 in operation.

10       “(g) APPLICATION OF FACCA.—Except as otherwise  
11 specifically provided, the Advisory Committee shall be sub-  
12 ject to the Federal Advisory Committee Act.

13 **“SEC. 3103. WTC HEALTH PROGRAM STEERING COMMIT-**  
14 **TEES.**

15       “(a) ESTABLISHMENT.—The WTC Program Admin-  
16 istrator shall establish two steering committees (each in  
17 this section referred to as a ‘Steering Committee’) as fol-  
18 lows:

19               “(1) WTC RESPONDERS STEERING COM-  
20 MITTEE.—One steering committee, to be known as  
21 the WTC Responders Steering Committee, for the  
22 purpose of facilitating the coordination of medical  
23 monitoring and treatment programs for the eligible  
24 WTC responders under part 1 of subtitle B.



1           “(2) WTC COMMUNITY PROGRAM STEERING  
2           COMMITTEE.—One steering committee, to be known  
3           as the WTC Community Program Steering Com-  
4           mittee, for the purpose of facilitating the coordina-  
5           tion of initial health evaluations, monitoring, and  
6           treatment programs for eligible WTC community  
7           members under part 2 of subtitle B.

8           “(b) MEMBERSHIP.—

9           “(1) INITIAL MEMBERSHIP OF WTC RESPOND-  
10           ERS STEERING COMMITTEE.—The WTC Responders  
11           Steering Committee shall initially be composed of  
12           members of the WTC Monitoring and Treatment  
13           Program Steering Committee (as in existence on the  
14           day before the date of the enactment of this title).  
15           In addition, the committee membership shall in-  
16           clude—

17                   “(A) a representative of the Police Com-  
18                   missioner of the City of New York;

19                   “(B) a representative of the Department of  
20                   Health of the City of New York;

21                   “(C) a representative of another agency of  
22                   the City of New York, selected by the Mayor of  
23                   New York City, which had a large number of  
24                   non-uniformed City workers who responded to

1 the September 11, 2001, terrorist attacks on  
2 the World Trade Center; and

3 “(D) three representatives of eligible WTC  
4 responders;

5 in order that eligible WTC responders constitute half  
6 the members of the Steering Committee.

7 “(2) INITIAL MEMBERSHIP OF WTC COMMUNITY  
8 PROGRAM STEERING COMMITTEE.—

9 “(A) IN GENERAL.—The WTC Community  
10 Program Steering Committee shall initially be  
11 composed of members of the WTC Environ-  
12 mental Health Center Community Advisory  
13 Committee (as in existence on the day before  
14 the date of the enactment of this title) and shall  
15 initially have, as voting members, the following:

16 “(i) 11 representatives of the affected  
17 populations of residents, students, area  
18 workers, and other community members.

19 “(ii) The Medical Director of the  
20 WTC Environmental Health Center.

21 “(iii) The Executive Director of the  
22 WTC Environmental Health Center.

23 “(iv) Three physicians, one each rep-  
24 resenting the three WTC Environmental  
25 Health Center treatment sites of Bellevue

1 Hospital Center, Gouverneur Healthcare  
2 Services, and Elmhurst Hospital Center.

3 “(v) Five specialists with WTC re-  
4 lated expertise or experience in treating  
5 non-responder WTC diseases, such as a pe-  
6 diatrician, an epidemiologist, a psychiatrist  
7 or psychologist, an environmental/occupa-  
8 tional specialist, or a social worker from a  
9 WTC Environmental Health Center treat-  
10 ment site, or other relevant specialists.

11 “(vi) A representative of the Depart-  
12 ment of Health and Mental Hygiene of the  
13 City of New York.

14 “(B) APPOINTMENTS.—

15 “(i) WTC EHC COMMUNITY ADVISORY  
16 COMMITTEE.—The WTC Environmental  
17 Health Center Community Advisory Com-  
18 mittee as in existence on the date of the  
19 enactment of this title shall nominate  
20 members for positions described in sub-  
21 paragraph (A)(i).

22 “(ii) NYC HEALTH AND HOSPITALS  
23 CORPORATION.—The New York City  
24 Health and Hospitals Corporation shall  
25 nominate members for positions described

1 in clauses (iv) and (v) of subparagraph  
2 (A).

3 “(iii) TIMING.—Nominations under  
4 clauses (i) and (ii) shall be recommended  
5 to the WTC Program Administrator not  
6 later than 60 days after the date of the en-  
7 actment of this title.

8 “(iv) APPOINTMENT.—The WTC Pro-  
9 gram Administrator shall appoint members  
10 of the WTC Community Program Steering  
11 Committee not later than 90 days after the  
12 date of the enactment of this title.

13 “(v) GENERAL REPRESENTATIVES.—  
14 Of the members appointed under subpara-  
15 graph (A)(i)—

16 “(I) the representation shall re-  
17 flect the broad and diverse WTC-af-  
18 fected populations and constituencies  
19 and the diversity of impacted neigh-  
20 borhoods, including residents, hard-to-  
21 reach populations, students, area  
22 workers, parents of school-aged stu-  
23 dents, community-based organizations,  
24 Community Boards, WTC Environ-  
25 mental Health Center patients, labor

1 unions, and labor advocacy organiza-  
2 tions; and

3 “(II) no one individual organiza-  
4 tion shall have more than one rep-  
5 resentative.

6 “(3) ADDITIONAL APPOINTMENTS.—Each  
7 Steering Committee may appoint, if approved by a  
8 majority of voting members of the Committee, addi-  
9 tional members to the Committee.

10 “(4) VACANCIES.—A vacancy in a Steering  
11 Committee shall be filled by the Steering Committee,  
12 subject to the approval of the WTC Program Ad-  
13 ministrator, so long as—

14 “(A) in the case of the WTC Responders  
15 Steering Committee—

16 “(i) the composition of the Steering  
17 Committee includes representatives of eligi-  
18 ble WTC responders and representatives of  
19 each Clinical Center of Excellence and  
20 each Coordinating Center of Excellence  
21 that serves eligible WTC responders; and

22 “(ii) such composition has eligible  
23 WTC responders constituting half of the  
24 membership of the Steering Committee; or

1           “(B) in the case of the WTC Community  
2 Program Steering Committee—

3           “(i) the composition of the Committee  
4 includes representatives of eligible WTC  
5 community members and representatives of  
6 each Clinical Center of Excellence and  
7 each Coordinating Center of Excellence  
8 that serves eligible WTC community mem-  
9 bers; and

10           “(ii) the nominating process is con-  
11 sistent with paragraph (2)(B).

12           “(5) CO-CHAIRS OF WTC COMMUNITY PROGRAM  
13 STEERING COMMITTEE.—The WTC Community Pro-  
14 gram Steering Committee shall have two Co-Chairs  
15 as follows:

16           “(A) COMMUNITY/LABOR CO-CHAIR.—A  
17 Community/Labor Co-Chair who shall be chosen  
18 by the community and labor-based members of  
19 the Steering Committee.

20           “(B) ENVIRONMENTAL HEALTH CLINIC  
21 CO-CHAIR.—A WTC Environmental Health  
22 Clinic Co-Chair who shall be chosen by the  
23 WTC Environmental Health Center members  
24 on the Steering Committee.

1       “(c) RELATION TO FACa.—Each Steering Com-  
2 mittee shall not be subject to the Federal Advisory Com-  
3 mittee Act.

4       “(d) MEETINGS.—Each Steering Committee shall  
5 meet at such frequency necessary to carry out its duties,  
6 but not less than 4 times each calendar year and at least  
7 two such meetings each year shall be a joint meeting with  
8 the voting membership of the other Steering Committee  
9 for the purpose of exchanging information regarding the  
10 WTC program.

11       “(e) DURATION.—Notwithstanding any other provi-  
12 sion of law, each Steering Committee shall continue in op-  
13 eration during the period in which the WTC program is  
14 in operation.

15 **“SEC. 3104. COMMUNITY EDUCATION AND OUTREACH.**

16       “(a) IN GENERAL.—The WTC Program Adminis-  
17 trator shall institute a program that provides education  
18 and outreach on the existence and availability of services  
19 under the WTC program. The outreach and education  
20 program—

21               “(1) shall include—

22                       “(A) the establishment of a public website  
23 with information about the WTC program;

24                       “(B) meetings with potentially eligible pop-  
25 ulations;

1           “(C) development and dissemination of  
2           outreach materials informing people about the  
3           WTC program; and

4           “(D) the establishment of phone informa-  
5           tion services; and

6           “(2) shall be conducted in a manner intended—

7           “(A) to reach all affected populations; and

8           “(B) to include materials for culturally and  
9           linguistically diverse populations.

10          “(b) PARTNERSHIPS.—To the greatest extent pos-  
11          sible, in carrying out this section, the WTC Program Ad-  
12          ministrators shall enter into partnerships with local govern-  
13          ments and organizations with experience performing out-  
14          reach to the affected populations, including community  
15          and labor-based organizations.

16          **“SEC. 3105. UNIFORM DATA COLLECTION.**

17          “(a) IN GENERAL.—The WTC Program Adminis-  
18          trator shall provide for the uniform collection of data (and  
19          analysis of data and regular reports to the Administrator)  
20          on the utilization of monitoring and treatment benefits  
21          provided to eligible WTC responders and eligible WTC  
22          community members, the prevalence of WTC-related  
23          health conditions, and the identification of new WTC-re-  
24          lated health conditions. Such data shall be collected for  
25          all individuals provided monitoring or treatment benefits



1 under subtitle B and regardless of their place of residence  
 2 or Clinical Center of Excellence through which the benefits  
 3 are provided.

4 “(b) COORDINATING THROUGH CENTERS OF EXCEL-  
 5 LENCE.—Each Clinical Center of Excellence shall collect  
 6 data described in subsection (a) and report such data to  
 7 the corresponding Coordinating Center of Excellence for  
 8 analysis by such Coordinating Center of Excellence.

9 “(c) PRIVACY.—The data collection and analysis  
 10 under this section shall be conducted in a manner that  
 11 protects the confidentiality of individually identifiable  
 12 health information consistent with applicable legal require-  
 13 ments.

14 **“SEC. 3106. CENTERS OF EXCELLENCE.**

15 “(a) IN GENERAL.—

16 “(1) CONTRACTS WITH CLINICAL CENTERS OF  
 17 EXCELLENCE.—The WTC Program Administrator  
 18 shall enter into contracts with Clinical Centers of  
 19 Excellence specified in subsection (b)(1)—

20 “(A) for the provision of monitoring and  
 21 treatment benefits and initial health evaluation  
 22 benefits under subtitle B;

23 “(B) for the provision of outreach activities  
 24 to individuals eligible for such monitoring and  
 25 treatment benefits, for initial health evaluation

1 benefits, and for follow-up to individuals who  
2 are enrolled in the monitoring program;

3 “(C) for the provision of counseling for  
4 benefits under subtitle B, with respect to WTC-  
5 related health conditions, for individuals eligible  
6 for such benefits;

7 “(D) for the provision of counseling for  
8 benefits for WTC-related health conditions that  
9 may be available under workers’ compensation  
10 or other benefit programs for work-related inju-  
11 ries or illnesses, health insurance, disability in-  
12 surance, or other insurance plans or through  
13 public or private social service agencies and as-  
14 sisting eligible individuals in applying for such  
15 benefits;

16 “(E) for the provision of translational and  
17 interpretive services as for program participants  
18 who are not English language proficient; and

19 “(F) for the collection and reporting of  
20 data in accordance with section 3105.

21 “(2) CONTRACTS WITH COORDINATING CEN-  
22 TERS OF EXCELLENCE.—The WTC Program Ad-  
23 ministrator shall enter into contracts with Coordi-  
24 nating Centers of Excellence specified in subsection  
25 (b)(2)—

1           “(A) for receiving, analyzing, and report-  
2           ing to the WTC Program Administrator on  
3           data, in accordance with section 3105, that has  
4           been collected and reported to such Coordi-  
5           nating Centers by the corresponding Clinical  
6           Centers of Excellence under subsection (d)(3);

7           “(B) for the development of medical moni-  
8           toring, initial health evaluation, and treatment  
9           protocols, with respect to WTC-related health  
10          conditions;

11          “(C) for coordinating the outreach activi-  
12          ties conducted under paragraph (1)(B) by each  
13          corresponding Clinical Center of Excellence;

14          “(D) for establishing criteria for the  
15          credentialing of medical providers participating  
16          in the nationwide network under section 3131;

17          “(E) for coordinating and administrating  
18          the activities of the WTC Health Program  
19          Steering Committees established under section  
20          3103(a); and

21          “(F) for meeting periodically with the cor-  
22          responding Clinical Centers of Excellence to ob-  
23          tain input on the analysis and reporting of data  
24          collected under subparagraph (A) and on the  
25          development of medical monitoring, initial

1 health evaluation, and treatment protocols  
2 under subparagraph (B).

3 The medical providers under subparagraph (D) shall  
4 be selected by the WTC Program Administrator on  
5 the basis of their experience treating or diagnosing  
6 the medical conditions included in the list of identi-  
7 fied WTC-related health conditions for responders  
8 and of identified WTC-related health conditions for  
9 community members.

10 “(3) REQUIRED PARTICIPATION BY NEW YORK  
11 CITY IN MONITORING AND TREATMENT PROGRAM  
12 AND COSTS.—

13 “(A) IN GENERAL.—In order for New  
14 York City, any agency or Department thereof,  
15 or the New York City Health and Hospitals  
16 Corporation to qualify for a contract for the  
17 provision of monitoring and treatment benefits  
18 and other services under this section, New York  
19 City is required to contribute a matching  
20 amount of 20 percent of the amount of the cov-  
21 ered monitoring and treatment payment (as de-  
22 fined in subparagraph (B)).

23 “(B) COVERED MONITORING AND TREAT-  
24 MENT PAYMENT DEFINED.—For the purposes  
25 of this paragraph, the term ‘covered monitoring

1 and treatment payment' means payment under  
2 paragraphs (1) and (2) including under each  
3 such paragraph as applied under sections  
4 3121(b) and 3122(a) for WTC community  
5 members, and section 3123 for other individ-  
6 uals with WTC-related health conditions, and  
7 reimbursement under section 3106(e)(1)(C) for  
8 items and services furnished by a Clinical Cen-  
9 ter of Excellence or Coordinating Center of Ex-  
10 cellence, after the application of paragraphs (2)  
11 and (3) of section 3101(d).

12 “(C) PAYMENT OF NEW YORK CITY SHARE  
13 OF MONITORING AND TREATMENT COSTS.—The  
14 WTC Program Administrator shall—

15 “(i) bill the amount specified in sub-  
16 paragraph (A) directly to New York City;  
17 and

18 “(ii) certify periodically, for purposes  
19 of section 3101(d)(2), whether or not New  
20 York City has paid the amount so billed.

21 “(D) LIMITATION ON REQUIRED  
22 AMOUNT.—In no case is New York City re-  
23 quired under this paragraph to contribute more  
24 than a total of \$250,000,000 over any 10-year  
25 period.

1 “(b) CENTERS OF EXCELLENCE DEFINED.—

2 “(1) CLINICAL CENTER OF EXCELLENCE.—In  
3 this title, the term ‘Clinical Center of Excellence’  
4 means the following:

5 “(A) FOR FDNY RESPONDERS.—With re-  
6 spect to an eligible WTC responder who re-  
7 sponded to the 9/11 attacks as an employee of  
8 the Fire Department of the City of New York  
9 and who—

10 “(i) is an active employee of such De-  
11 partment—

12 “(I) with respect to monitoring,  
13 such Fire Department; and

14 “(II) with respect to treatment,  
15 such Fire Department (or such entity  
16 as has entered into a contract with  
17 the Fire Department for treatment of  
18 such responders) or any other Clinical  
19 Center of Excellence described in sub-  
20 paragraph (B), (C), or (D); or

21 “(ii) is not an active employee of such  
22 Department, such Fire Department (or  
23 such entity as has entered into a contract  
24 with the Fire Department for monitoring  
25 or treatment of such responders) or any

1           other Clinical Center of Excellence de-  
2           scribed in subparagraph (B), (C), or (D).

3           “(B) OTHER ELIGIBLE WTC RESPOND-  
4           ERS.—With respect to other eligible WTC re-  
5           sponders, whether or not the responders reside  
6           in the New York Metropolitan area, the Mt.  
7           Sinai-coordinated consortium, Queens College,  
8           State University of New York at Stony Brook,  
9           University of Medicine and Dentistry of New  
10          Jersey, and Bellevue Hospital.

11          “(C) WTC COMMUNITY MEMBERS.—With  
12          respect to eligible WTC community members,  
13          whether or not the members reside in the New  
14          York Metropolitan area, the World Trade Cen-  
15          ter Environmental Health Center at Bellevue  
16          Hospital and such hospitals or other facilities,  
17          including but not limited to those within the  
18          New York City Health and Hospitals Corpora-  
19          tion, as are identified by the WTC Program Ad-  
20          ministrator.

21          “(D) ALL ELIGIBLE WTC RESPONDERS  
22          AND ELIGIBLE WTC COMMUNITY MEMBERS.—  
23          With respect to all eligible WTC responders and  
24          eligible WTC community members, such other

1 hospitals or other facilities as are identified by  
2 the WTC Program Administrator.

3 The WTC Program Administrator shall limit the  
4 number of additional Centers of Excellence identified  
5 under subparagraph (D) to ensure that the partici-  
6 pating centers have adequate experience in the treat-  
7 ment and diagnosis of identified WTC-related health  
8 conditions.

9 “(2) COORDINATING CENTER OF EXCEL-  
10 LENCE.—In this title, the term ‘Coordinating Center  
11 of Excellence’ means the following:

12 “(A) FOR FDNY RESPONDERS.—With re-  
13 spect to an eligible WTC responder who re-  
14 sponded to the 9/11 attacks as an employee of  
15 the Fire Department of the City of New York,  
16 such Fire Department.

17 “(B) OTHER WTC RESPONDERS.—With re-  
18 spect to other eligible WTC responders, the Mt.  
19 Sinai-coordinated consortium.

20 “(C) WTC COMMUNITY MEMBERS.—With  
21 respect to eligible WTC community members,  
22 the World Trade Center Environmental Health  
23 Center at Bellevue Hospital.

24 “(3) CORRESPONDING CENTERS.—In this title,  
25 a Clinical Center of Excellence and a Coordinating



1 Center of Excellence shall be treated as ‘cor-  
2 responding’ to the extent that such Clinical Center  
3 and Coordinating Center serve the same population  
4 group.

5 “(c) REIMBURSEMENT FOR NON-TREATMENT, NON-  
6 MONITORING PROGRAM COSTS.—A Clinical or Coordi-  
7 nating Center of Excellence with a contract under this sec-  
8 tion shall be reimbursed for the costs of such Center in  
9 carrying out the activities described in subsection (a),  
10 other than those described in subsection (a)(1)(A), subject  
11 to the provisions of section 3101(d), as follows:

12 “(1) CLINICAL CENTERS OF EXCELLENCE.—  
13 For carrying out subparagraphs (B) through (F) of  
14 subsection (a)(1)—

15 “(A) CLINICAL CENTER FOR FDNY RE-  
16 SPONDERS IN NEW YORK.—The Clinical Center  
17 of Excellence for FDNY responders in New  
18 York specified in subsection (b)(1)(A) shall be  
19 reimbursed—

20 “(i) in the first year of the contract  
21 under this section, \$600 per certified eligi-  
22 ble WTC responder in the medical treat-  
23 ment program, and \$300 per certified eli-  
24 gible WTC responder in the monitoring  
25 program; and

1           “(ii) in each subsequent contract year,  
2           subject to paragraph (3), at the rates spec-  
3           ified in this subparagraph for the previous  
4           contract year adjusted by the WTC Pro-  
5           gram Administrator to reflect the rate of  
6           medical care inflation during the previous  
7           contract year.

8           “(B) CLINICAL CENTERS SERVING OTHER  
9           ELIGIBLE WTC RESPONDERS IN NEW YORK.—A  
10          Clinical Center of Excellence for other WTC re-  
11          sponders in New York specified in subsection  
12          (b)(1)(B) shall be reimbursed the amounts  
13          specified in subparagraph (A).

14          “(C) CLINICAL CENTERS SERVING WTC  
15          COMMUNITY MEMBERS.—A Clinical Center of  
16          Excellence for eligible WTC community mem-  
17          bers in New York specified in subsection  
18          (b)(1)(C) shall be reimbursed—

19                 “(i) in the first year of the contract  
20                 under this section, for each certified eligi-  
21                 ble WTC community member in a medical  
22                 treatment program enrolled at a non-hos-  
23                 pital-based facility, \$600, and for each cer-  
24                 tified eligible WTC community member in

1 a medical treatment program enrolled at a  
2 hospital-based facility, \$300; and

3 “(ii) in each subsequent contract year,  
4 subject to paragraph (3), at the rates spec-  
5 ified in this subparagraph for the previous  
6 contract year adjusted by the WTC Pro-  
7 gram Administrator to reflect the rate of  
8 medical care inflation during the previous  
9 contract year.

10 “(D) OTHER CLINICAL CENTERS.—A Clin-  
11 ical Center of Excellence for other providers not  
12 described in a previous subparagraph shall be  
13 reimbursed at a rate set by the WTC Program  
14 Administrator.

15 “(E) REIMBURSEMENT RULES.—The reim-  
16 bursement provided under subparagraphs (A),  
17 (B), and (C) shall be made for each certified el-  
18 igible WTC responder and for each WTC com-  
19 munity member in the WTC program per year  
20 that the member receives such services, regard-  
21 less of the volume or cost of services required.

22 “(2) COORDINATING CENTERS OF EXCEL-  
23 LENCE.—A Coordinating Center of Excellence speci-  
24 fied in section (a)(2) shall be reimbursed for the  
25 provision of services set forth in this section at such

1 levels as are established by the WTC Program Ad-  
2 ministrator.

3 “(3) REVIEW OF RATES.—

4 “(A) INITIAL REVIEW.—Before the end of  
5 the third contract year of the WTC program,  
6 the WTC Program Administrator shall conduct  
7 a review to determine whether the reimburse-  
8 ment rates set forth in this subsection provide  
9 fair and appropriate reimbursement for such  
10 program services. Based on such review, the  
11 Administrator may, by rule beginning with the  
12 fourth contract year, modify such rates, taking  
13 into account a reasonable and fair rate for the  
14 services being provided.

15 “(B) SUBSEQUENT REVIEWS.—After the  
16 fourth contract year, the WTC Program Ad-  
17 ministrator shall conduct periodic reviews to de-  
18 termine whether the reimbursement rates in ef-  
19 fect under this subsection provide fair and ap-  
20 propriate reimbursement for such program serv-  
21 ices. Based upon such a review, the Adminis-  
22 trator may by rule modify such rates, taking  
23 into account a reasonable and fair rate for the  
24 services being provided.

1           “(C) GAO REVIEW.—The Comptroller  
2           General of the United States shall review the  
3           WTC Program Administrator’s determinations  
4           regarding fair and appropriate reimbursement  
5           for program services under this paragraph.

6           “(d) REQUIREMENTS.—The WTC Program Adminis-  
7           trator shall not enter into a contract with a Clinical Center  
8           of Excellence under subsection (a)(1) unless—

9           “(1) the Center establishes a formal mechanism  
10          for consulting with and receiving input from rep-  
11          resentatives of eligible populations receiving moni-  
12          toring and treatment benefits under subtitle B from  
13          such Center;

14          “(2) the Center provides for the coordination of  
15          monitoring and treatment benefits under subtitle B  
16          with routine medical care provided for the treatment  
17          of conditions other than WTC-related health condi-  
18          tions;

19          “(3) the Center collects and reports to the cor-  
20          responding Coordinating Center of Excellence data  
21          in accordance with section 3105;

22          “(4) the Center has in place safeguards against  
23          fraud that are satisfactory to the Administrator;

24          “(5) the Center agrees to treat or refer for  
25          treatment all individuals who are eligible WTC re-

1 sponders or eligible WTC community members with  
2 respect to such Center who present themselves for  
3 treatment of a WTC-related health condition;

4 “(6) the Center has in place safeguards to en-  
5 sure the confidentiality of an individual’s individ-  
6 ually identifiable health information, including re-  
7 quiring that such information not be disclosed to the  
8 individual’s employer without the authorization of  
9 the individual;

10 “(7) the Center provides assurances that the  
11 amounts paid under subsection (c)(1) are used only  
12 for costs incurred in carrying out the activities de-  
13 scribed in subsection (a), other than those described  
14 in subsection (a)(1)(A); and

15 “(8) the Center agrees to meet all the other ap-  
16 plicable requirements of this title, including regula-  
17 tions implementing such requirements.

18 “(e) NYC RIGHT OF INSPECTION AND AUDIT.—

19 “(1) IN GENERAL.—The City of New York, for  
20 any program under this title for which the City con-  
21 tributes a matching amount pursuant to subsection  
22 (a)(3)(C), shall have the right to, independently but  
23 in coordination with the WTC Program Adminis-  
24 trator—

1           “(A) inspect or otherwise evaluate the  
2           quality, appropriateness, and timeliness of serv-  
3           ices provided to recipients of assistance under a  
4           contract under such program; and

5           “(B) audit and inspect any books and  
6           records of any Clinical Center of Excellence or  
7           Coordinating Center of Excellence that pertain  
8           to—

9                   “(i) the ability of the Center of Excel-  
10                  lence to provide services to program recipi-  
11                  ents under the contract; or

12                   “(ii) expenditures made utilizing City  
13                  funds.

14           “(2) MEMORANDUM OF UNDERSTANDING.—The  
15           WTC Program Administrator shall enter into a  
16           memorandum of understanding with the City of New  
17           York setting forth the terms and conditions of how  
18           the inspections and audits conducted by the City  
19           under paragraph (1) shall be carried out. The  
20           memorandum of understanding shall include provi-  
21           sions requiring that any audits conducted by the  
22           City of New York under paragraph (1) will be done  
23           in a manner to protect the confidentiality of pro-  
24           gram participants and in accordance with the Health  
25           Insurance Portability and Accountability Act of

1 1996 and other applicable Federal and State med-  
2 ical confidentiality requirements.

3 **“SEC. 3107. ENTITLEMENT AUTHORITIES.**

4 “Subject to subsections (b)(4)(C) and (c)(4) of sec-  
5 tion 3112—

6 “(1) subtitle B constitutes budget authority in  
7 advance of appropriations Acts and represents the  
8 obligation of the Federal Government to provide for  
9 the payment for monitoring, initial health evalua-  
10 tions, and treatment in accordance with such sub-  
11 title; and

12 “(2) section 3106(e) constitutes such budget  
13 authority and represents the obligation of the Fed-  
14 eral Government to provide for the payment de-  
15 scribed in such section.

16 **“SEC. 3108. DEFINITIONS.**

17 “In this title:

18 “(1) The term ‘aggravating’ means, with re-  
19 spect to a health condition, a health condition that  
20 existed on September 11, 2001, and that, as a result  
21 of exposure to airborne toxins, any other hazard, or  
22 any other adverse condition resulting from the Sep-  
23 tember 11, 2001, terrorist attacks on the World  
24 Trade Center, requires medical treatment that is (or  
25 will be) in addition to, more frequent than, or of



1 longer duration than the medical treatment that  
2 would have been required for such condition in the  
3 absence of such exposure.

4 “(2) The terms ‘certified eligible WTC re-  
5 sponder’ and ‘certified eligible WTC community  
6 member’ mean an individual who has been certified  
7 as an eligible WTC responder under section  
8 3111(a)(4) or an eligible WTC community member  
9 under section 3121(a)(4), respectively.

10 “(3) The terms ‘Clinical Center of Excellence’  
11 and ‘Coordinating Center of Excellence’ have the  
12 meanings given such terms in section 3106(b).

13 “(4) The term ‘current consortium arrange-  
14 ments’ means the arrangements as in effect on the  
15 date of the enactment of this title between the Na-  
16 tional Institute for Occupational Safety and Health  
17 and the Mt. Sinai-coordinated consortium and the  
18 Fire Department of the City of New York.

19 “(5) The terms ‘eligible WTC responder’ and  
20 ‘eligible WTC community member’ are defined in  
21 sections 3111(a) and 3121(a), respectively.

22 “(6) The term ‘initial health evaluation’ in-  
23 cludes, with respect to an individual, a medical and  
24 exposure history, a physical examination, and addi-  
25 tional medical testing as needed to evaluate whether

1 the individual has a WTC-related health condition  
2 and is eligible for treatment under the WTC pro-  
3 gram.

4 “(7) The term ‘list of identified WTC-related  
5 health conditions’ means—

6 “(A) for eligible WTC responders, the  
7 identified WTC-related health conditions for eli-  
8 gible WTC responders under paragraph (3) or  
9 (4) of section 3112(a); or

10 “(B) for eligible WTC community mem-  
11 bers, the identified WTC-related health condi-  
12 tions for WTC community members under  
13 paragraph (1) or (2) of section 3122(b).

14 “(8) The term ‘Mt.-Sinai-coordinated consor-  
15 tium’ means the consortium coordinated by Mt.  
16 Sinai hospital in New York City that coordinates the  
17 monitoring and treatment under the current consor-  
18 tium arrangements for eligible WTC responders  
19 other than with respect to those covered under the  
20 arrangement with the Fire Department of the City  
21 of New York.

22 “(9) The term ‘New York City disaster area’  
23 means the area within New York City that is—

24 “(A) the area of Manhattan that is south  
25 of Houston Street; and

1           “(B) any block in Brooklyn that is wholly  
2           or partially contained within a 1.5-mile radius  
3           of the former World Trade Center site.

4           “(10) The term ‘New York metropolitan area’  
5           means an area, specified by the WTC Program Ad-  
6           ministrator, within which eligible WTC responders  
7           and eligible WTC community members who reside in  
8           such area are reasonably able to access monitoring  
9           and treatment benefits and initial health evaluation  
10          benefits under this title through a Clinical Center of  
11          Excellence described in subparagraph (A), (B), or  
12          (C) of section 3106(b)(1).

13          “(11) Any reference to ‘September 11, 2001’,  
14          shall be deemed a reference to the period on such  
15          date subsequent to the terrorist attacks on the  
16          World Trade Center on such date.

17          “(12) The term ‘September 11, 2001, terrorist  
18          attacks on the World Trade Center’ means the ter-  
19          rorist attacks that occurred on September 11, 2001,  
20          in New York City and includes the aftermath of  
21          such attacks.

22          “(13) The term ‘WTC Health Program Steer-  
23          ing Committee’ means such a Steering Committee  
24          established under section 3103.

1           “(14) The term ‘WTC Program Administrator’  
2 means the individual responsible under section  
3 3101(f) for the administration of the WTC program.

4           “(15) The term ‘WTC-related health condition’  
5 is defined in section 3112(a).

6           “(16) The term ‘WTC Scientific/Technical Ad-  
7 visory Committee’ means the WTC Health Program  
8 Scientific/Technical Advisory Committee established  
9 under section 3102.

10 **“Subtitle B—Program of Moni-**  
11 **toring, Initial Health Evalua-**  
12 **tions, and Treatment**

13 **“PART 1—FOR WTC RESPONDERS**

14 **“SEC. 3111. IDENTIFICATION OF ELIGIBLE WTC RESPOND-**  
15 **ERS AND PROVISION OF WTC-RELATED MONI-**  
16 **TORING SERVICES.**

17 **“(a) ELIGIBLE WTC RESPONDER DEFINED.—**

18           **“(1) IN GENERAL.—**For purposes of this title,  
19 the term ‘eligible WTC responder’ means any of the  
20 following individuals, subject to paragraph (5):

21           **“(A) CURRENTLY IDENTIFIED RE-**  
22 **SPONDER.—**An individual who has been identi-  
23 fied as eligible for medical monitoring under the  
24 current consortium arrangements (as defined in  
25 section 3108(4)).

1           “(B) RESPONDER WHO MEETS CURRENT  
2 ELIGIBILITY CRITERIA.—An individual who  
3 meets the current eligibility criteria described in  
4 paragraph (2).

5           “(C) RESPONDER WHO MEETS MODIFIED  
6 ELIGIBILITY CRITERIA.—An individual who—

7                   “(i) performed rescue, recovery, demo-  
8 lition, debris cleanup, or other related serv-  
9 ices in the New York City disaster area in  
10 response to the September 11, 2001, ter-  
11 rorist attacks on the World Trade Center,  
12 regardless of whether such services were  
13 performed by a State or Federal employee  
14 or member of the National Guard or other-  
15 wise; and

16                   “(ii) meets such eligibility criteria re-  
17 lating to exposure to airborne toxins, other  
18 hazards, or adverse conditions resulting  
19 from the September 11, 2001, terrorist at-  
20 tacks on the World Trade Center as the  
21 WTC Program Administrator, after con-  
22 sultation with the WTC Responders Steer-  
23 ing Committee and the WTC Scientific/  
24 Technical Advisory Committee, determines  
25 appropriate.

1           The WTC Program Administrator shall not  
2           modify such eligibility criteria on or after the  
3           date that the number of certifications for eligi-  
4           ble responders has reached 80 percent of the  
5           limit described in paragraph (5) or on or after  
6           the date that the number of certifications for el-  
7           igible community members has reached 80 per-  
8           cent of the limit described in section  
9           3121(a)(5).

10           “(2) CURRENT ELIGIBILITY CRITERIA.—The  
11           eligibility criteria described in this paragraph for an  
12           individual is that the individual is described in either  
13           of the following categories:

14                   “(A) FIRE FIGHTERS AND RELATED PER-  
15                   SONNEL.—The individual—

16                           “(i) was a member of the Fire De-  
17                           partment of the City of New York (wheth-  
18                           er fire or emergency personnel, active or  
19                           retired) who participated at least one day  
20                           in the rescue and recovery effort at any of  
21                           the former World Trade Center sites (in-  
22                           cluding Ground Zero, Staten Island Land-  
23                           fill, and the NYC Chief Medical Exam-  
24                           iner’s office) for any time during the pe-

1 rioid beginning on September 11, 2001,  
2 and ending on July 31, 2002; or

3 “(ii)(I) is a surviving immediate fam-  
4 ily member of an individual who was a  
5 member of the Fire Department of the  
6 City of New York (whether fire or emer-  
7 gency personnel, active or retired) and was  
8 killed at the World Trade site on Sep-  
9 tember 11, 2001; and

10 “(II) received any treatment for a  
11 WTC-related mental health condition de-  
12 scribed in section 3112(a)(1)(B) on or be-  
13 fore September 1, 2008.

14 “(B) LAW ENFORCEMENT OFFICERS AND  
15 WTC RESCUE, RECOVERY, AND CLEAN-UP  
16 WORKERS.—The individual—

17 “(i) worked or volunteered on-site in  
18 rescue, recovery, debris-cleanup, or related  
19 support services in lower Manhattan (south  
20 of Canal Street), the Staten Island Land-  
21 fill, or the barge loading piers, for—

22 “(I) at least 4 hours during the  
23 period beginning on September 11,  
24 2001, and ending on September 14,  
25 2001;

1                   “(II) at least 24 hours during  
2                   the period beginning on September  
3                   11, 2001, and ending on September  
4                   30, 2001; or

5                   “(III) at least 80 hours during  
6                   the period beginning on September  
7                   11, 2001, and ending on July 31,  
8                   2002;

9                   “(ii)(I) was a member of the Police  
10                  Department of the City of New York  
11                  (whether active or retired) or a member of  
12                  the Port Authority Police of the Port Au-  
13                  thority of New York and New Jersey  
14                  (whether active or retired) who partici-  
15                  pated on-site in rescue, recovery, debris  
16                  clean-up, or related support services in  
17                  lower Manhattan (south of Canal Street),  
18                  including Ground Zero, the Staten Island  
19                  Landfill, or the barge loading piers, for at  
20                  least 4 hours during the period beginning  
21                  September 11, 2001, and ending on Sep-  
22                  tember 14, 2001;

23                  “(II) participated on-site in rescue,  
24                  recovery, debris clean-up, or related serv-  
25                  ices at Ground Zero, the Staten Island



1 Landfill or the barge loading piers, for at  
2 least one day during the period beginning  
3 on September 11, 2001, and ending on  
4 July 31, 2002;

5 “(III) participated on-site in rescue,  
6 recovery, debris clean-up, or related serv-  
7 ices in lower Manhattan (south of Canal  
8 St.) for at least 24 hours during the period  
9 beginning on September 11, 2001, and  
10 ending on September 30, 2001; or

11 “(IV) participated on-site in rescue,  
12 recovery, debris clean-up, or related serv-  
13 ices in lower Manhattan (south of Canal  
14 St.) for at least 80 hours during the period  
15 beginning on September 11, 2001, and  
16 ending on July 31, 2002;

17 “(iii) was an employee of the Office of  
18 the Chief Medical Examiner of the City of  
19 New York involved in the examination and  
20 handling of human remains from the Sep-  
21 tember 11, 2001, terrorist attacks on the  
22 World Trade Center, or other morgue  
23 worker who performed similar post-Sep-  
24 tember 11 functions for such Office staff,

1 during the period beginning on September  
2 11, 2001, and ending on July 31, 2002;

3 “(iv) was a worker in the Port Au-  
4 thority Trans-Hudson Corporation tunnel  
5 for at least 24 hours during the period be-  
6 ginning on February 1, 2002, and ending  
7 on July 1, 2002; or

8 “(v) was a vehicle-maintenance worker  
9 who was exposed to debris from the former  
10 World Trade Center while retrieving, driv-  
11 ing, cleaning, repairing, or maintaining ve-  
12 hicles contaminated by airborne toxins  
13 from the September 11, 2001, terrorist at-  
14 tacks on the World Trade Center during a  
15 duration and period described in subpara-  
16 graph (A).

17 “(3) APPLICATION PROCESS.—The WTC Pro-  
18 gram Administrator in consultation with the Coordi-  
19 nating Centers of Excellence shall establish a proc-  
20 ess for individuals, other than eligible WTC respond-  
21 ers described in paragraph (1)(A), to apply to be de-  
22 termined to be eligible WTC responders. Under such  
23 process—

1           “(A) there shall be no fee charged to the  
2 applicant for making an application for such  
3 determination;

4           “(B) the Administrator shall make a deter-  
5 mination on such an application not later than  
6 60 days after the date of filing the application;  
7 and

8           “(C) an individual who is determined not  
9 to be an eligible WTC responder shall have an  
10 opportunity to appeal such determination before  
11 an administrative law judge in a manner estab-  
12 lished under such process.

13           “(4) CERTIFICATION.—

14           “(A) IN GENERAL.—In the case of an indi-  
15 vidual who is described in paragraph (1)(A) or  
16 who is determined under paragraph (3) (con-  
17 sistent with paragraph (5)) to be an eligible  
18 WTC responder, the WTC Program Adminis-  
19 trator shall provide an appropriate certification  
20 of such fact and of eligibility for monitoring  
21 and treatment benefits under this part. The Ad-  
22 ministrator shall make determinations of eligi-  
23 bility relating to an applicant’s compliance with  
24 this title, including the verification of informa-  
25 tion submitted in support of the application,

1 and shall not deny such a certification to an in-  
2 dividual unless the Administrator determines  
3 that—

4 “(i) based on the application sub-  
5 mitted, the individual does not meet the  
6 eligibility criteria; or

7 “(ii) the numerical limitation on eligi-  
8 ble WTC responders set forth in paragraph  
9 (5) has been met.

10 “(B) TIMING.—

11 “(i) CURRENTLY IDENTIFIED RE-  
12 SPONDERS.—In the case of an individual  
13 who is described in paragraph (1)(A), the  
14 WTC Program Administrator shall provide  
15 the certification under subparagraph (A)  
16 not later than 60 days after the date of the  
17 enactment of this title.

18 “(ii) OTHER RESPONDERS.—In the  
19 case of another individual who is deter-  
20 mined under paragraph (3) and consistent  
21 with paragraph (5) to be an eligible WTC  
22 responder, the WTC Program Adminis-  
23 trator shall provide the certification under  
24 subparagraph (A) at the time of the deter-  
25 mination.

1           “(5) NUMERICAL LIMITATION ON ELIGIBLE  
2 WTC RESPONDERS.—

3           “(A) IN GENERAL.—The total number of  
4 individuals not described in subparagraph (C)  
5 who may qualify as eligible WTC responders for  
6 purposes of this title, and be certified as eligible  
7 WTC responders under paragraph (4), shall not  
8 exceed 15,000, subject to adjustment under  
9 paragraph (6), of which no more than 2,500  
10 may be individuals certified based on modified  
11 eligibility criteria established under paragraph  
12 (1)(C). In applying the previous sentence, any  
13 individual who at any time so qualifies as an el-  
14 igible WTC responder shall be counted against  
15 such numerical limitation.

16           “(B) PROCESS.—In implementing subpara-  
17 graph (A), the WTC Program Administrator  
18 shall—

19           “(i) limit the number of certifications  
20 provided under paragraph (4) in accord-  
21 ance with such subparagraph; and

22           “(ii) provide priority in such certifi-  
23 cations in the order in which individuals  
24 apply for a determination under paragraph  
25 (3).

1           “(C) CURRENTLY IDENTIFIED RESPOND-  
2           ERS NOT COUNTED.—Individuals described in  
3           this subparagraph are individuals who are de-  
4           scribed in paragraph (1)(A).

5           “(6) POTENTIAL ADJUSTMENT IN NUMERICAL  
6           LIMITATIONS DEPENDENT UPON ACTUAL SPENDING  
7           RELATIVE TO ESTIMATED SPENDING.—

8           “(A) INITIAL CALCULATION FOR FISCAL  
9           YEARS 2009 THROUGH 2011.—If the WTC Pro-  
10          gram Administrator determines as of December  
11          1, 2011, that the WTC expenditure-to-CBO-es-  
12          timate percentage (as defined in subparagraph  
13          (D)(iii)) for fiscal years 2009 through 2011  
14          does not exceed 90 percent, then, effective Jan-  
15          uary 1, 2012, the WTC Program Administrator  
16          may increase the numerical limitation under  
17          paragraph (5)(A), the numerical limitation  
18          under section 3121(a)(5), or both, by a number  
19          of percentage points not to exceed the number  
20          of percentage points specified in subparagraph  
21          (C) for such period of fiscal years.

22          “(B) SUBSEQUENT CALCULATION FOR FIS-  
23          CAL YEARS 2009 THROUGH 2015.—If the Sec-  
24          retary determines as of December 1, 2015, that  
25          the WTC expenditure-to-CBO-estimate percent-

1           ages for fiscal years 2009 through 2015 and for  
2           fiscal years 2012 through 2015 do not exceed  
3           90 percent, then, effective January 1, 2015, the  
4           WTC Program Administrator may increase the  
5           numerical limitation under paragraph (5)(A),  
6           the numerical limitation under section  
7           3121(a)(5), or both, as in effect after the appli-  
8           cation of subparagraph (A), by a number of  
9           percentage points not to exceed twice the lesser  
10          of—

11                   “(i) the number of percentage points  
12                   specified in subparagraph (C) for fiscal  
13                   years 2009 through 2012, or

14                   “(ii) the number of percentage points  
15                   specified in subparagraph (C) for fiscal  
16                   years 2012 through 2015.

17                   “(C) MAXIMUM PERCENTAGE INCREASE IN  
18                   NUMERICAL LIMITATIONS FOR PERIOD OF FIS-  
19                   CAL YEARS.—The number of percentage points  
20                   specified in this clause for a period of fiscal  
21                   years is—

22                           “(i) 100 percentage points, multiplied  
23                           by

24                           “(ii) one minus a fraction the numer-  
25                           ator of which is the net Federal WTC

1 spending for such period, and the denomi-  
2 nator of which is the CBO WTC spending  
3 estimate under this title for such period.

4 “(D) DEFINITIONS.—For purposes of this  
5 paragraph:

6 “(i) NET FEDERAL WTC SPENDING.—  
7 The term ‘net Federal WTC spending’  
8 means, with respect to a period of fiscal  
9 years, the net Federal spending under this  
10 title for such fiscal years.

11 “(ii) CBO WTC MEDICAL SPENDING  
12 ESTIMATE UNDER THIS TITLE.—The term  
13 ‘CBO WTC medical spending estimate  
14 under this title’ means, with respect to—

15 “(I) fiscal years 2009 through  
16 2011, \$900,000,000;

17 “(II) fiscal years 2012 through  
18 2015, \$1,890,000,000; and

19 “(III) fiscal years 2009 through  
20 2015, the sum of the amounts speci-  
21 fied in subclauses (I) and (II).

22 “(iii) WTC EXPENDITURE-TO-CBO-ES-  
23 TIMATE PERCENTAGE.—The term ‘WTC  
24 expenditure-to-estimate percentage’ means,



1 with respect to a period of fiscal years, the  
2 ratio (expressed as a percentage) of—

3 “(I) the net Federal WTC spend-  
4 ing for such period, to

5 “(II) the CBO WTC medical  
6 spending estimate under this title for  
7 such period.

8 “(b) MONITORING BENEFITS.—

9 “(1) IN GENERAL.—In the case of an eligible  
10 WTC responder under section 3111(a)(4) (other  
11 than one described in subsection (a)(2)(A)(ii)), the  
12 WTC program shall provide for monitoring benefits  
13 that include medical monitoring consistent with pro-  
14 tocols approved by the WTC Program Administrator  
15 and including clinical examinations and long-term  
16 health monitoring and analysis. In the case of an eli-  
17 gible WTC responder who is an active member of  
18 the Fire Department of the City of New York, the  
19 responder shall receive such benefits as part of the  
20 individual’s periodic company medical exams.

21 “(2) PROVISION OF MONITORING BENEFITS.—

22 The monitoring benefits under paragraph (1) shall  
23 be provided through the Clinical Center of Excel-  
24 lence for the type of individual involved or, in the  
25 case of an individual residing outside the New York

1 metropolitan area, under an arrangement under sec-  
2 tion 3131.

3 **“SEC. 3112. TREATMENT OF CERTIFIED ELIGIBLE WTC RE-**  
4 **SPONDERS FOR WTC-RELATED HEALTH CON-**  
5 **DITIONS.**

6 “(a) WTC-RELATED HEALTH CONDITION DE-  
7 FINED.—

8 “(1) IN GENERAL.—For purposes of this title,  
9 the term ‘WTC-related health condition’ means—

10 “(A) an illness or health condition for  
11 which exposure to airborne toxins, any other  
12 hazard, or any other adverse condition resulting  
13 from the September 11, 2001, terrorist attacks  
14 on the World Trade Center, based on an exam-  
15 ination by a medical professional with experi-  
16 ence in treating or diagnosing the medical con-  
17 ditions included in the applicable list of identi-  
18 fied WTC-related health conditions, is substan-  
19 tially likely to be a significant factor in aggra-  
20 vating, contributing to, or causing the illness or  
21 health condition, as determined under para-  
22 graph (2); or

23 “(B) a mental health condition for which  
24 such attacks, based on an examination by a  
25 medical professional with experience in treating

1 or diagnosing the medical conditions included in  
2 the applicable list of identified WTC-related  
3 health conditions, is substantially likely be a  
4 significant factor in aggravating, contributing  
5 to, or causing the condition, as determined  
6 under paragraph (2).

7 In the case of an eligible WTC responder described  
8 in section 3111(a)(2)(A)(ii), such term only includes  
9 the mental health condition described in subpara-  
10 graph (B).

11 “(2) DETERMINATION.—The determination of  
12 whether the September 11, 2001, terrorist attacks  
13 on the World Trade Center were substantially likely  
14 to be a significant factor in aggravating, contrib-  
15 uting to, or causing an individual’s illness or health  
16 condition shall be made based on an assessment of  
17 the following:

18 “(A) The individual’s exposure to airborne  
19 toxins, any other hazard, or any other adverse  
20 condition resulting from the terrorist attacks.  
21 Such exposure shall be—

22 “(i) evaluated and characterized  
23 through the use of a standardized, popu-  
24 lation appropriate questionnaire approved

1 by the Director of the National Institute  
2 for Occupational Safety and Health; and

3 “(ii) assessed and documented by a  
4 medical professional with experience in  
5 treating or diagnosing medical conditions  
6 included on the list of identified WTC-re-  
7 lated health conditions.

8 “(B) The type of symptoms and temporal  
9 sequence of symptoms. Such symptoms shall  
10 be—

11 “(i) assessed through the use of a  
12 standardized, population appropriate med-  
13 ical questionnaire approved by Director of  
14 the National Institute for Occupational  
15 Safety and Health and a medical examina-  
16 tion; and

17 “(ii) diagnosed and documented by a  
18 medical professional described in subpara-  
19 graph (A)(ii).

20 “(3) LIST OF IDENTIFIED WTC-RELATED  
21 HEALTH CONDITIONS FOR ELIGIBLE WTC RESPOND-  
22 ERS.—For purposes of this title, the term ‘identified  
23 WTC-related health condition for eligible WTC re-  
24 sponders’ means any of the following health condi-  
25 tions:

- 1 “(A) AERODIGESTIVE DISORDERS.—
- 2 “(i) Interstitial lung diseases.
- 3 “(ii) Chronic respiratory disorder-
- 4 fumes/vapors.
- 5 “(iii) Asthma.
- 6 “(iv) Reactive airways dysfunction
- 7 syndrome (RADS).
- 8 “(v) WTC-exacerbated chronic ob-
- 9 structive pulmonary disease (COPD).
- 10 “(vi) Chronic cough syndrome.
- 11 “(vii) Upper airway hyperreactivity.
- 12 “(viii) Chronic rhinosinusitis.
- 13 “(ix) Chronic nasopharyngitis.
- 14 “(x) Chronic laryngitis.
- 15 “(xi) Gastro-esophageal reflux dis-
- 16 order (GERD).
- 17 “(xii) Sleep apnea exacerbated by or
- 18 related to a condition described in a pre-
- 19 vious clause.
- 20 “(B) MENTAL HEALTH CONDITIONS.—
- 21 “(i) Post traumatic stress disorder
- 22 (PTSD).
- 23 “(ii) Major depressive disorder.
- 24 “(iii) Panic disorder.
- 25 “(iv) Generalized anxiety disorder.

1                   “(v) Anxiety disorder (not otherwise  
2 specified).

3                   “(vi) Depression (not otherwise speci-  
4 fied).

5                   “(vii) Acute stress disorder.

6                   “(viii) Dysthymic disorder.

7                   “(ix) Adjustment disorder.

8                   “(x) Substance abuse.

9                   “(xi) V codes (treatments not specifi-  
10 cally related to psychiatric disorders, such  
11 as marital problems, parenting problems,  
12 etc.), secondary to another identified  
13 WTC-related health condition for WTC eli-  
14 gible responders.

15                   “(C) MUSCULOSKELETAL DISORDERS.—

16                   “(i) Low back pain.

17                   “(ii) Carpal tunnel syndrome (CTS).

18                   “(iii) Other musculoskeletal disorders.

19                   “(4) ADDITION OF IDENTIFIED WTC-RELATED  
20 HEALTH CONDITIONS FOR ELIGIBLE WTC RESPOND-  
21 ERS.—

22                   “(A) IN GENERAL.—The WTC Program  
23 Administrator may promulgate regulations to  
24 add an illness or health condition not described  
25 in paragraph (3) to the list of identified WTC-

1 related conditions for eligible WTC responders.  
2 In promulgating such regulations, the Secretary  
3 shall provide for notice and opportunity for a  
4 public hearing and at least 90 days of public  
5 comment. In promulgating such regulations, the  
6 WTC Program Administrator shall take into  
7 account the findings and recommendations of  
8 Clinical Centers of Excellence published in peer  
9 reviewed journals in the determination of  
10 whether an additional illness or health condi-  
11 tion, such as cancer, should be added to the list  
12 of identified WTC-related health conditions for  
13 eligible WTC responders.

14 “(B) PETITIONS.—Any person (including  
15 the WTC Health Program Scientific/Technical  
16 Advisory Committee) may petition the WTC  
17 Program Administrator to propose regulations  
18 described in subparagraph (A). Unless clearly  
19 frivolous, or initiated by such Committee, any  
20 such petition shall be referred to such Com-  
21 mittee for its recommendations. Following—

22 “(i) receipt of any recommendation of  
23 the Committee; or

24 “(ii) 180 days after the date of the re-  
25 ferral to the Committee,

1           whichever occurs first, the WTC Program Ad-  
2           ministrator shall conduct a rulemaking pro-  
3           ceeding on the matters proposed in the petition  
4           or publish in the Federal Register a statement  
5           of reasons for not conducting such proceeding.

6           “(C) EFFECTIVENESS.—Any addition  
7           under subparagraph (A) of an illness or health  
8           condition shall apply only with respect to appli-  
9           cations for benefits under this title which are  
10          filed after the effective date of such regulation.

11          “(D) ROLE OF ADVISORY COMMITTEE.—  
12          Except with respect to a regulation rec-  
13          ommended by the WTC Scientific/Technical Ad-  
14          visory Committee, the WTC Program Adminis-  
15          trator may not propose a regulation under this  
16          paragraph, unless the Administrator has first  
17          provided to the Committee a copy of the pro-  
18          posed regulation, requested recommendations  
19          and comments by the Committee, and afforded  
20          the Committee at least 90 days to make such  
21          recommendations.

22          “(b) COVERAGE OF TREATMENT FOR WTC-RELATED  
23          HEALTH CONDITIONS.—



1           “(1) DETERMINATION BASED ON AN IDENTI-  
2 FIED WTC-RELATED HEALTH CONDITION FOR CER-  
3 TIFIED ELIGIBLE WTC RESPONDERS.—

4           “(A) IN GENERAL.—If a physician at a  
5 Clinical Center of Excellence that is providing  
6 monitoring benefits under section 3111 for a  
7 certified eligible WTC responder determines  
8 that the responder has an identified WTC-re-  
9 lated health condition, and the physician makes  
10 a clinical determination that exposure to air-  
11 borne toxins, other hazards, or adverse condi-  
12 tions resulting from the September, 11, 2001,  
13 terrorist attacks on the World Trade Center is  
14 substantially likely to be a significant factor in  
15 aggravating, contributing to, or causing the  
16 condition—

17           “(i) the physician shall promptly  
18 transmit such determination to the WTC  
19 Program Administrator and provide the  
20 Administrator with the medical facts sup-  
21 porting such determination; and

22           “(ii) on and after the date of such  
23 transmittal and subject to subparagraph  
24 (B), the WTC program shall provide for

1 payment under subsection (c) for medically  
2 necessary treatment for such condition.

3 “(B) REVIEW; CERTIFICATION; AP-  
4 PEALS.—

5 “(i) REVIEW.—A Federal employee  
6 designated by the WTC Program Adminis-  
7 trator shall review determinations made  
8 under subparagraph (A) of a WTC-related  
9 health condition.

10 “(ii) CERTIFICATION.—The Adminis-  
11 trator shall provide a certification of such  
12 condition based upon reviews conducted  
13 under clause (i). Such a certification shall  
14 be provided unless the Administrator de-  
15 termines that the responder’s condition is  
16 not an identified WTC-related health con-  
17 dition or that exposure to airborne toxins,  
18 other hazards, or adverse conditions result-  
19 ing from the September 11, 2001, terrorist  
20 attacks on the World Trade Center is not  
21 substantially likely to be a significant fac-  
22 tor in significantly aggravating, contrib-  
23 uting to, or causing the condition.

24 “(iii) APPEAL PROCESS.—The Admin-  
25 istrator shall provide a process for the ap-

1                   peal of determinations under clause (ii) be-  
2                   fore an administrative law judge.

3                   “(2) DETERMINATION BASED ON OTHER WTC-  
4                   RELATED HEALTH CONDITION.—

5                   “(A) IN GENERAL.—If a physician at a  
6                   Clinical Center of Excellence determines pursu-  
7                   ant to subsection (a) that a certified eligible  
8                   WTC responder has a WTC-related health con-  
9                   dition that is not an identified WTC-related  
10                  health condition for eligible WTC responders—

11                  “(i) the physician shall promptly  
12                  transmit such determination to the WTC  
13                  Program Administrator and provide the  
14                  Administrator with the facts supporting  
15                  such determination; and

16                  “(ii) the Administrator shall make a  
17                  determination under subparagraph (B)  
18                  with respect to such physician’s determina-  
19                  tion.

20                  “(B) REVIEW; CERTIFICATION.—

21                  “(i) USE OF PHYSICIAN PANEL.—  
22                  With respect to each determination relat-  
23                  ing to a WTC-related health condition  
24                  transmitted under subparagraph (A)(i),  
25                  the WTC Program Administrator shall

1 provide for the review of the condition to  
2 be made by a physician panel with appro-  
3 priate expertise appointed by the WTC  
4 Program Administrator. Such a panel shall  
5 make recommendations to the Adminis-  
6 trator on the evidence supporting such de-  
7 termination.

8 “(ii) REVIEW OF RECOMMENDATIONS  
9 OF PANEL; CERTIFICATION.—The Adminis-  
10 trator, based on such recommendations  
11 shall determine, within 60 days after the  
12 date of the transmittal under subpara-  
13 graph (A)(i), whether or not the condition  
14 is a WTC-related health condition and, if  
15 it is, provide for a certification under para-  
16 graph (1)(B)(ii) of coverage of such condi-  
17 tion. The Administrator shall provide a  
18 process for the appeal of determinations  
19 that the responder’s condition is not a  
20 WTC-related health condition before an  
21 administrative law judge.

22 “(3) REQUIREMENT OF MEDICAL NECESSITY.—

23 “(A) IN GENERAL.—In providing treat-  
24 ment for a WTC-related health condition, a  
25 physician shall provide treatment that is medi-

1 cally necessary and in accordance with medical  
2 protocols established under subsection (d).

3 “(B) MEDICALLY NECESSARY STAND-  
4 ARD.—For the purpose of this title, health care  
5 services shall be treated as medically necessary  
6 for an individual if a physician, exercising pru-  
7 dent clinical judgment, would consider the serv-  
8 ices to be medically necessary for the individual  
9 for the purpose of evaluating, diagnosing, or  
10 treating an illness, injury, disease or its symp-  
11 toms, and that are—

12 “(i) in accordance with the generally  
13 accepted standards of medical practice;

14 “(ii) clinically appropriate, in terms of  
15 type, frequency, extent, site, and duration,  
16 and considered effective for the individual’s  
17 illness, injury, or disease; and

18 “(iii) not primarily for the conven-  
19 ience of the patient or physician, or an-  
20 other physician, and not more costly than  
21 an alternative service or sequence of serv-  
22 ices at least as likely to produce equivalent  
23 therapeutic or diagnostic results as to the  
24 diagnosis or treatment of the individual’s  
25 illness, injury, or disease.

1                   “(C) DETERMINATION OF MEDICAL NE-  
2                   CESSITY.—

3                   “(i) REVIEW OF MEDICAL NECES-  
4                   SITY.—As part of the reimbursement pay-  
5                   ment process under subsection (c), the  
6                   WTC Program Administrator shall review  
7                   claims for reimbursement for the provision  
8                   of medical treatment to determine if such  
9                   treatment is medically necessary.

10                  “(ii) WITHHOLDING OF PAYMENT FOR  
11                  MEDICALLY UNNECESSARY TREATMENT.—  
12                  The Administrator may withhold such pay-  
13                  ment for treatment that the Administrator  
14                  determines is not medically necessary.

15                  “(iii) REVIEW OF DETERMINATIONS  
16                  OF MEDICAL NECESSITY.—The Adminis-  
17                  trator shall provide a process for providers  
18                  to appeal a determination under clause (ii)  
19                  that medical treatment is not medically  
20                  necessary. Such appeals shall be reviewed  
21                  through the use of a physician panel with  
22                  appropriate expertise.

23                  “(4) SCOPE OF TREATMENT COVERED.—

24                  “(A) IN GENERAL.—The scope of treat-  
25                  ment covered under paragraphs (1) through (3)

1 includes services of physicians and other health  
2 care providers, diagnostic and laboratory tests,  
3 prescription drugs, inpatient and outpatient  
4 hospital services, and other medically necessary  
5 treatment.

6 “(B) PHARMACEUTICAL COVERAGE.—With  
7 respect to ensuring coverage of medically nec-  
8 essary outpatient prescription drugs, such drugs  
9 shall be provided, under arrangements made by  
10 the WTC Program Administrator, directly  
11 through participating Clinical Centers of Excel-  
12 lence or through one or more outside vendors.

13 “(C) TRANSPORTATION EXPENSES.—To  
14 the extent provided in advance in appropria-  
15 tions Acts, the WTC Program Administrator  
16 may provide for necessary and reasonable  
17 transportation and expenses incident to the se-  
18 curing of medically necessary treatment involv-  
19 ing travel of more than 250 miles and for which  
20 payment is made under this section in the same  
21 manner in which individuals may be furnished  
22 necessary and reasonable transportation and ex-  
23 penses incident to services involving travel of  
24 more than 250 miles under regulations imple-  
25 menting section 3629(c) of the Energy Employ-

1           ees Occupational Illness Compensation Program  
2           Act of 2000 (title XXXVI of Public Law 106–  
3           398; 42 U.S.C. 7384t(c)).

4           “(5) PROVISION OF TREATMENT PENDING CER-  
5           TIFICATION.—In the case of a certified eligible WTC  
6           responder who has been determined by an examining  
7           physician under subsection (b)(1) to have an identi-  
8           fied WTC-related health condition, but for whom a  
9           certification of the determination has not yet been  
10          made by the WTC Program Administrator, medical  
11          treatment may be provided under this subsection,  
12          subject to paragraph (6), until the Administrator  
13          makes a decision on such certification. Medical  
14          treatment provided under this paragraph shall be  
15          considered to be medical treatment for which pay-  
16          ment may be made under subsection (c).

17          “(6) PRIOR APPROVAL PROCESS FOR NON-CER-  
18          TIFIED NON-EMERGENCY INPATIENT HOSPITAL  
19          SERVICES.—Non-emergency inpatient hospital serv-  
20          ices for a WTC-related health condition identified by  
21          an examining physician under paragraph (1) that is  
22          not certified under paragraph (1)(B)(ii) is not cov-  
23          ered unless the services have been determined to be  
24          medically necessary and approved through a process  
25          established by the WTC Program Administrator.



1 Such process shall provide for a decision on a re-  
2 quest for such services within 15 days of the date  
3 of receipt of the request. The WTC Administrator  
4 shall provide a process for the appeal of a decision  
5 that the services are not medically necessary.

6 “(c) PAYMENT FOR INITIAL HEALTH EVALUATION,  
7 MEDICAL MONITORING, AND TREATMENT OF WTC-RE-  
8 LATED HEALTH CONDITIONS.—

9 “(1) MEDICAL TREATMENT.—

10 “(A) USE OF FECA PAYMENT RATES.—  
11 Subject to subparagraph (B), the WTC Pro-  
12 gram Administrator shall reimburse costs for  
13 medically necessary treatment under this title  
14 for WTC-related health conditions according to  
15 the payment rates that would apply to the pro-  
16 vision of such treatment and services by the fa-  
17 cility under the Federal Employees Compensa-  
18 tion Act.

19 “(B) PHARMACEUTICALS.—

20 “(i) IN GENERAL.—The WTC Pro-  
21 gram Administrator shall establish a pro-  
22 gram for paying for the medically nec-  
23 essary outpatient prescription pharma-  
24 ceuticals prescribed under this title for

1 WTC-related health conditions through one  
2 or more contracts with outside vendors.

3 “(ii) COMPETITIVE BIDDING.—Under  
4 such program the Administrator shall—

5 “(I) select one or more appro-  
6 priate vendors through a Federal com-  
7 petitive bid process; and

8 “(II) select the lowest bidder (or  
9 bidders) meeting the requirements for  
10 providing pharmaceutical benefits for  
11 participants in the WTC program.

12 “(iii) TREATMENT OF FDNY PARTICI-  
13 PANTS.—Under such program the Admin-  
14 istrator may select a separate vendor to  
15 provide pharmaceutical benefits to certified  
16 eligible WTC responders for whom the  
17 Clinical Center of Excellence is described  
18 in section 3106(b)(1)(A) if such an ar-  
19 rangement is deemed necessary and bene-  
20 ficial to the program by the WTC Program  
21 Administrator.

22 “(C) OTHER TREATMENT.—For treatment  
23 not covered under a preceding subparagraph,  
24 the WTC Program Administrator shall des-

1           ignite a reimbursement rate for each such serv-  
2           ice.

3           “(2) MEDICAL MONITORING AND INITIAL  
4           HEALTH EVALUATION.—The WTC Program Admin-  
5           istrator shall reimburse the costs of medical moni-  
6           toring and the costs of an initial health evaluation  
7           provided under this title at a rate set by the Admin-  
8           istrator.

9           “(3) ADMINISTRATIVE ARRANGEMENT AUTHOR-  
10          ITY.—The WTC Program Administrator may enter  
11          into arrangements with other government agencies,  
12          insurance companies, or other third-party adminis-  
13          trators to provide for timely and accurate processing  
14          of claims under this section.

15          “(4) CLAIMS PROCESSING SUBJECT TO APPRO-  
16          PRIATIONS.—The payment by the WTC Program  
17          Administrator for the processing of claims under  
18          this title is limited to the amounts provided in ad-  
19          vance in appropriations Acts.

20          “(d) MEDICAL TREATMENT PROTOCOLS.—

21                 “(1) DEVELOPMENT.—The Coordinating Cen-  
22                 ters of Excellence shall develop medical treatment  
23                 protocols for the treatment of certified eligible WTC  
24                 responders and certified eligible WTC community

1 members for identified WTC-related health condi-  
2 tions.

3 “(2) APPROVAL.—The WTC Program Adminis-  
4 trator shall approve the medical treatment protocols,  
5 in consultation with the WTC Health Program  
6 Steering Committees.

7 **“PART 2—COMMUNITY PROGRAM**

8 **“SEC. 3121. IDENTIFICATION AND INITIAL HEALTH EVALUA-**  
9 **TION OF ELIGIBLE WTC COMMUNITY MEM-**  
10 **BERS.**

11 “(a) ELIGIBLE WTC COMMUNITY MEMBER DE-  
12 FINED.—

13 “(1) IN GENERAL.—In this title, the term ‘eligi-  
14 ble WTC community member’ means, subject to  
15 paragraphs (3) and (5), an individual who claims  
16 symptoms of a WTC-related health condition and is  
17 described in any of the following subparagraphs:

18 “(A) CURRENTLY IDENTIFIED COMMUNITY  
19 MEMBER.—An individual, including an eligible  
20 WTC responder, who has been identified as eli-  
21 gible for medical treatment or monitoring by  
22 the WTC Environmental Health Center as of  
23 the date of enactment of this title.

24 “(B) COMMUNITY MEMBER WHO MEETS  
25 CURRENT ELIGIBILITY CRITERIA.—An indi-

1           vidual who is not an eligible WTC responder  
2           and meets any of the current eligibility criteria  
3           described in a subparagraph of paragraph (2).

4           “(C) COMMUNITY MEMBER WHO MEETS  
5           MODIFIED ELIGIBILITY CRITERIA.—An indi-  
6           vidual who is not an eligible WTC responder  
7           and meets such eligibility criteria relating to ex-  
8           posure to airborne toxins, other hazards, or ad-  
9           verse conditions resulting from the September  
10          11, 2001, terrorist attacks on the World Trade  
11          Center as the WTC Administrator determines  
12          after consultation with the WTC Community  
13          Program Steering Committee, the Coordinating  
14          Centers of Excellence described in section  
15          3106(b)(1)(C), and the WTC Scientific/Tech-  
16          nical Advisory Committee.

17          The Administrator shall not modify such criteria  
18          under subparagraph (C) on or after the date that  
19          the number of certifications for eligible WTC com-  
20          munity members has reached 80 percent of the limit  
21          described in paragraph (5) or on or after the date  
22          that the number of certifications for eligible WTC  
23          responders has reached 80 percent of the limit de-  
24          scribed in section 3111(a)(5).

1           “(2) CURRENT ELIGIBILITY CRITERIA.—The  
2           eligibility criteria described in this paragraph for an  
3           individual are that the individual is described in any  
4           of the following subparagraphs:

5                   “(A) A person who was present in the New  
6           York City disaster area in the dust or dust  
7           cloud on September 11, 2001.

8                   “(B) A person who worked, resided, or at-  
9           tended school, child care or adult day care in  
10          the New York City disaster area for—

11                   “(i) at least four days during the 4-  
12          month period beginning on September 11,  
13          2001, and ending on January 10, 2002; or

14                   “(ii) at least 30 days during the pe-  
15          riod beginning on September 11, 2001,  
16          and ending on July 31, 2002.

17                   “(C) A person who worked as a clean-up  
18          worker or performed maintenance work in the  
19          New York City disaster area during the 4-  
20          month period described in subparagraph (B)(i)  
21          and had extensive exposure to WTC dust as a  
22          result of such work.

23                   “(D) A person who was deemed eligible to  
24          receive a grant from the Lower Manhattan De-  
25          velopment Corporation Residential Grant Pro-

1           gram, who possessed a lease for a residence or  
2           purchased a residence in the New York City  
3           disaster area, and who resided in such residence  
4           during the period beginning on September 11,  
5           2001, and ending on May 31, 2003.

6           “(E) A person whose place of employ-  
7           ment—

8                   “(i) at any time during the period be-  
9                   ginning on September 11, 2001, and end-  
10                  ing on May 31, 2003, was in the New  
11                  York City disaster area; and

12                  “(ii) was deemed eligible to receive a  
13                  grant from the Lower Manhattan Develop-  
14                  ment Corporation WTC Small Firms At-  
15                  traction and Retention Act program or  
16                  other government incentive program de-  
17                  signed to revitalize the Lower Manhattan  
18                  economy after the September 11, 2001,  
19                  terrorist attacks on the World Trade Cen-  
20                  ter.

21           “(3) APPLICATION PROCESS.—The WTC Pro-  
22           gram Administrator in consultation with the Coordinating  
23           Centers of Excellence shall establish a process  
24           for individuals, other than individuals described

1 in paragraph (1)(A), to be determined eligible WTC  
2 community members. Under such process—

3 “(A) there shall be no fee charged to the  
4 applicant for making an application for such  
5 determination;

6 “(B) the Administrator shall make a deter-  
7 mination on such an application not later than  
8 60 days after the date of filing the application;  
9 and

10 “(C) an individual who is determined not  
11 to be an eligible WTC community member shall  
12 have an opportunity to appeal such determina-  
13 tion before an administrative law judge in a  
14 manner established under such process.

15 “(4) CERTIFICATION.—

16 “(A) IN GENERAL.—In the case of an indi-  
17 vidual who is described in paragraph (1)(A) or  
18 who is determined under paragraph (3) (con-  
19 sistent with paragraph (5)) to be an eligible  
20 WTC community member, the WTC Program  
21 Administrator shall provide an appropriate cer-  
22 tification of such fact and of eligibility for fol-  
23 lowup monitoring and treatment benefits under  
24 this part. The Administrator shall make deter-  
25 minations of eligibility relating to an applicant’s



1 compliance with this title, including the  
2 verification of information submitted in support  
3 of the application and shall not deny such a  
4 certification to an individual unless the Admin-  
5 istrator determines that—

6 “(i) based on the application sub-  
7 mitted, the individual does not meet the  
8 eligibility criteria; or

9 “(ii) the numerical limitation on cer-  
10 tification of eligible WTC community mem-  
11 bers set forth in paragraph (5) has been  
12 met.

13 “(B) TIMING.—

14 “(i) CURRENTLY IDENTIFIED COMMU-  
15 NITY MEMBERS.—In the case of an indi-  
16 vidual who is described in paragraph  
17 (1)(A), the WTC Program Administrator  
18 shall provide the certification under sub-  
19 paragraph (A) not later than 60 days after  
20 the date of the enactment of this title.

21 “(ii) OTHER MEMBERS.—In the case  
22 of another individual who is determined  
23 under paragraph (3) and consistent with  
24 paragraph (5) to be an eligible WTC com-  
25 munity member, the WTC Program Ad-

1            administrator shall provide the certification  
2            under subparagraph (A) at the time of  
3            such determination.

4            “(5) NUMERICAL LIMITATION ON CERTIFI-  
5            CATION OF ELIGIBLE WTC COMMUNITY MEMBERS.—

6            “(A) IN GENERAL.—The total number of  
7            individuals not described in subparagraph (C)  
8            who may be certified as eligible WTC commu-  
9            nity members under paragraph (4) shall not ex-  
10            ceed 15,000. In applying the previous sentence,  
11            any individual who at any time so qualifies as  
12            an eligible WTC community member shall be  
13            counted against such numerical limitation.

14            “(B) PROCESS.—In implementing subpara-  
15            graph (A), the WTC Program Administrator  
16            shall—

17            “(i) limit the number of certifications  
18            provided under paragraph (4) in accord-  
19            ance with such subparagraph; and

20            “(ii) provide priority in such certifi-  
21            cations in the order in which individuals  
22            apply for a determination under paragraph  
23            (4).

24            “(C) INDIVIDUALS CURRENTLY RECEIVING  
25            TREATMENT NOT COUNTED.—Individuals de-

1           scribed in this subparagraph are individuals  
2           who—

3                   “(i) are described in paragraph  
4                   (1)(A); or

5                   “(ii) before the date of the enactment  
6                   of this title, have received monitoring or  
7                   treatment at the World Trade Center En-  
8                   vironmental Health Center at Bellevue  
9                   Hospital Center, Gouverneur Health Care  
10                  Services, or Elmhurst Hospital Center.

11           The New York City Health and Hospitals Cor-  
12           poration shall, not later than 6 months after  
13           the date of enactment of this title, enter into  
14           arrangements with the Mt. Sinai Data and  
15           Clinical Coordination Center for the reporting  
16           of medical data concerning eligible WTC re-  
17           sponders described in paragraph (1)(A), as de-  
18           termined by the WTC Program Administrator  
19           and consistent with applicable Federal and  
20           State laws and regulations relating to confiden-  
21           tiality of individually identifiable health infor-  
22           mation.

23                   “(D) REPORT TO CONGRESS IF NUMER-  
24                   ICAL LIMITATION TO BE REACHED.—If the  
25                   WTC Program Administrator determines that

1 the number of individuals subject to the numer-  
2 ical limitation of subparagraph (A) is likely to  
3 exceed such numerical limitation, the Adminis-  
4 trator shall submit to Congress a report on  
5 such determination. Such report shall include  
6 an estimate of the number of such individuals  
7 in excess of such numerical limitation and of  
8 the additional expenditures that would result  
9 under this title if such numerical limitation  
10 were removed.

11 “(b) INITIAL HEALTH EVALUATION TO DETERMINE  
12 ELIGIBILITY FOR FOLLOWUP MONITORING OR TREAT-  
13 MENT.—

14 “(1) IN GENERAL.—In the case of a certified el-  
15 igible WTC community member, the WTC program  
16 shall provide for an initial health evaluation to deter-  
17 mine if the member has a WTC-related health condi-  
18 tion and is eligible for followup monitoring and  
19 treatment benefits under the WTC program. Initial  
20 health evaluation protocols shall be approved by the  
21 WTC Program Administrator, in consultation with  
22 the World Trade Center Environmental Health Cen-  
23 ter at Bellevue Hospital and the WTC Community  
24 Program Steering Committee.

1           “(2) INITIAL HEALTH EVALUATION PRO-  
2           VIDERS.—The initial health evaluation described in  
3           paragraph (1) shall be provided through a Clinical  
4           Center of Excellence with respect to the individual  
5           involved.

6           “(3) LIMITATION ON INITIAL HEALTH EVALUA-  
7           TION BENEFITS.—Benefits for initial health evalua-  
8           tion under this part for an eligible WTC community  
9           member shall consist only of a single medical initial  
10          health evaluation consistent with initial health eval-  
11          uation protocols described in paragraph (1). Nothing  
12          in this paragraph shall be construed as preventing  
13          such an individual from seeking additional medical  
14          initial health evaluations at the expense of the indi-  
15          vidual.

16 **“SEC. 3122. FOLLOWUP MONITORING AND TREATMENT OF**  
17                           **CERTIFIED ELIGIBLE WTC COMMUNITY MEM-**  
18                           **BERS FOR WTC-RELATED HEALTH CONDI-**  
19                           **TIONS.**

20          “(a) IN GENERAL.—Subject to subsection (b), the  
21          provisions of sections 3111 and 3112 shall apply to fol-  
22          lowup monitoring and treatment of WTC-related health  
23          conditions for certified eligible WTC community members  
24          in the same manner as such provisions apply to the moni-  
25          toring and treatment of identified WTC-related health

1 conditions for certified eligible WTC responders, except  
 2 that such monitoring shall only be available to those cer-  
 3 tified as eligible for treatment under this title. Under sec-  
 4 tion 3106(a)(3), the City of New York is required to con-  
 5 tribute a share of the costs of such treatment.

6 “(b) LIST OF IDENTIFIED WTC-RELATED HEALTH  
 7 CONDITIONS FOR WTC COMMUNITY MEMBERS.—

8 “(1) IDENTIFIED WTC-RELATED HEALTH CON-  
 9 DITIONS FOR WTC COMMUNITY MEMBERS.—For pur-  
 10 poses of this title, the term ‘identified WTC-related  
 11 health conditions for WTC community members’  
 12 means any of the following health conditions:

13 “(A) AERODIGESTIVE DISORDERS.—

14 “(i) Interstitial lung diseases.

15 “(ii) Chronic respiratory disorder—  
 16 fumes/vapors.

17 “(iii) Asthma.

18 “(iv) Reactive airways dysfunction  
 19 syndrome (RADS).

20 “(v) WTC-exacerbated chronic ob-  
 21 structive pulmonary disease (COPD).

22 “(vi) Chronic cough syndrome.

23 “(vii) Upper airway hyperreactivity.

24 “(viii) Chronic rhinosinusitis.

25 “(ix) Chronic nasopharyngitis.

1 “(x) Chronic laryngitis.

2 “(xi) Gastro-esophageal reflux dis-  
3 order (GERD).

4 “(xii) Sleep apnea exacerbated by or  
5 related to a condition described in a pre-  
6 vious clause.

7 “(B) MENTAL HEALTH CONDITIONS.—

8 “(i) Post traumatic stress disorder  
9 (PTSD).

10 “(ii) Major depressive disorder.

11 “(iii) Panic disorder.

12 “(iv) Generalized anxiety disorder.

13 “(v) Anxiety disorder (not otherwise  
14 specified).

15 “(vi) Depression (not otherwise speci-  
16 fied).

17 “(vii) Acute stress disorder.

18 “(viii) Dysthymic disorder.

19 “(ix) Adjustment disorder.

20 “(x) Substance abuse.

21 “(xi) V codes (treatments not specifi-  
22 cally related to psychiatric disorders, such  
23 as marital problems, parenting problems,  
24 etc.), secondary to another identified

1           WTC-related health condition for WTC  
2           community members.

3           “(2) ADDITIONS TO IDENTIFIED WTC-RELATED  
4           HEALTH CONDITIONS FOR WTC COMMUNITY MEM-  
5           BERS.—The provisions of paragraph (4) of section  
6           3112(a) shall apply with respect to an addition to  
7           the list of identified WTC-related health conditions  
8           for eligible WTC community members under para-  
9           graph (1) in the same manner as such provisions  
10          apply to an addition to the list of identified WTC-  
11          related health conditions for eligible WTC respond-  
12          ers under section 3112(a)(3).

13   **“SEC. 3123. FOLLOWUP MONITORING AND TREATMENT OF**  
14                   **OTHER INDIVIDUALS WITH WTC-RELATED**  
15                   **HEALTH CONDITIONS.**

16          “(a) IN GENERAL.—Subject to subsection (c), the  
17          provisions of section 3122 shall apply to the followup mon-  
18          itoring and treatment of WTC-related health conditions  
19          for eligible WTC community members in the case of indi-  
20          viduals described in subsection (b) in the same manner  
21          as such provisions apply to the followup monitoring and  
22          treatment of WTC-related health conditions for WTC  
23          community members. Under section 3106(a)(3), the City  
24          of New York is required to contribute a share of the costs  
25          of such monitoring and treatment.



1       “(b) INDIVIDUALS DESCRIBED.—An individual de-  
2 scribed in this subsection is an individual who, regardless  
3 of location of residence—

4               “(1) is not an eligible WTC responder or an eli-  
5 gible WTC community member; and

6               “(2) is diagnosed at a Clinical Center of Excel-  
7 lence (with respect to an eligible WTC community  
8 member) with an identified WTC-related health con-  
9 dition for WTC community members.

10       “(c) LIMITATION.—

11               “(1) IN GENERAL.—The WTC Program Admin-  
12 istrator shall limit benefits for any fiscal year under  
13 subsection (a) in a manner so that payments under  
14 this section for such fiscal year do not exceed the  
15 amount specified in paragraph (2) for such fiscal  
16 year.

17               “(2) LIMITATION.—The amount specified in  
18 this paragraph for—

19                       “(A) fiscal year 2009 is \$20,000,000; or

20                       “(B) a succeeding fiscal year is the  
21 amount specified in this paragraph for the pre-  
22 vious fiscal year increased by the annual per-  
23 centage increase in the medical care component  
24 of the Consumer Price Index for All Urban  
25 Consumers.

1 **“PART 3—NATIONAL ARRANGEMENT FOR BENE-**  
2 **FITS FOR ELIGIBLE INDIVIDUALS OUTSIDE**  
3 **NEW YORK**

4 **“SEC. 3131. NATIONAL ARRANGEMENT FOR BENEFITS FOR**  
5 **ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK.**

6 “(a) IN GENERAL.—In order to ensure reasonable ac-  
7 cess to benefits under this subtitle for individuals who are  
8 eligible WTC responders or eligible WTC community  
9 members and who reside in any State, as defined in sec-  
10 tion 2(f), outside the New York metropolitan area, the  
11 WTC Program Administrator shall establish a nationwide  
12 network of health care providers to provide monitoring  
13 and treatment benefits and initial health evaluations near  
14 such individuals’ areas of residence in such States. Noth-  
15 ing in this subsection shall be construed as preventing  
16 such individuals from being provided such monitoring and  
17 treatment benefits or initial health evaluation through any  
18 Clinical Center of Excellence.

19 “(b) NETWORK REQUIREMENTS.—Any health care  
20 provider participating in the network under subsection (a)  
21 shall—

22 “(1) meet criteria for credentialing established  
23 by the Coordinating Centers of Excellence;

24 “(2) follow the monitoring, initial health evalua-  
25 tion, and treatment protocols developed under sec-  
26 tion 3106(a)(2)(B);



1 tions for which there has been treatment uncer-  
2 tainty.

3 The Administrator may provide such support through con-  
4 tinuation and expansion of research that was initiated be-  
5 fore the date of the enactment of this title and through  
6 the World Trade Center Health Registry (referred to in  
7 section 3151), through a Clinical Center of Excellence, or  
8 through a Coordinating Center of Excellence.

9 “(b) TYPES OF RESEARCH.—The research under  
10 subsection (a)(1) shall include epidemiologic and other re-  
11 search studies on WTC-related health conditions or  
12 emerging conditions—

13 “(1) among WTC responders and community  
14 members under treatment; and

15 “(2) in sampled populations outside the New  
16 York City disaster area in Manhattan as far north  
17 as 14th Street and in Brooklyn, along with control  
18 populations, to identify potential for long-term ad-  
19 verse health effects in less exposed populations.

20 “(c) CONSULTATION.—The WTC Program Adminis-  
21 trator shall carry out this section in consultation with the  
22 WTC Health Program Steering Committees and the WTC  
23 Scientific/Technical Advisory Committee.

24 “(d) APPLICATION OF PRIVACY AND HUMAN SUB-  
25 JECT PROTECTIONS.—The privacy and human subject

1 protections applicable to research conducted under this  
2 section shall not be less than such protections applicable  
3 to research otherwise conducted by the National Institutes  
4 of Health.

5 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the  
6 purpose of carrying out this section, there are authorized  
7 to be appropriated \$15,000,000 for each fiscal year, in  
8 addition to any other authorizations of appropriations that  
9 are available for such purpose.

10 **“Subtitle D—Programs of the New**  
11 **York City Department of Health**  
12 **and Mental Hygiene**

13 **“SEC. 3151. WORLD TRADE CENTER HEALTH REGISTRY.**

14 “(a) PROGRAM EXTENSION.—For the purpose of en-  
15 suring on-going data collection for victims of the Sep-  
16 tember 11, 2001, terrorist attacks on the World Trade  
17 Center, the WTC Program Administrator, shall extend  
18 and expand the arrangements in effect as of January 1,  
19 2008, with the New York City Department of Health and  
20 Mental Hygiene that provide for the World Trade Center  
21 Health Registry.

22 “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized to be appropriated \$7,000,000 for each fis-  
24 cal year to carry out this section.

1 **“SEC. 3152. MENTAL HEALTH SERVICES.**

2       “(a) IN GENERAL.—The WTC Program Adminis-  
3 trator may make grants to the New York City Department  
4 of Health and Mental Hygiene to provide mental health  
5 services to address mental health needs relating to the  
6 September 11, 2001, terrorist attacks on the World Trade  
7 Center.

8       “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated \$8,500,000 for each fis-  
10 cal year to carry out this section.”.

11 **TITLE II—SEPTEMBER 11TH VIC-**  
12 **TIM COMPENSATION FUND OF**  
13 **2001**

14 **SEC. 201. DEFINITIONS.**

15       Section 402 of the Air Transportation Safety and  
16 System Stabilization Act (49 U.S.C. 40101 note) is  
17 amended—

18           (1) in paragraph (6) by inserting “, or debris  
19 removal, including under the World Trade Center  
20 Health Program established under section 3101 of  
21 the Public Health Service Act,” after “September  
22 11, 2001”;

23           (2) by inserting after paragraph (6) the fol-  
24 lowing new paragraphs and redesignating subse-  
25 quent paragraphs accordingly:

1           “(7) CONTRACTOR AND SUBCONTRACTOR.—The  
2 term ‘contractor and subcontractor’ means any con-  
3 tractor or subcontractor (at any tier of a subcon-  
4 tracting relationship), including any general con-  
5 tractor, construction manager, prime contractor,  
6 consultant, or any parent, subsidiary, associated or  
7 allied company, affiliated company, corporation,  
8 firm, organization, or joint venture thereof that par-  
9 ticipated in debris removal at any 9/11 crash site.  
10 Such term shall not include any entity, including the  
11 Port Authority of New York and New Jersey, with  
12 a property interest in the World Trade Center, on  
13 September 11, 2001, whether fee simple, leasehold  
14 or easement, direct or indirect.

15           “(8) DEBRIS REMOVAL.—The term ‘debris re-  
16 moval’ means rescue and recovery efforts, removal of  
17 debris, cleanup, remediation, and response during  
18 the immediate aftermath of the terrorist-related air-  
19 craft crashes of September 11, 2001, with respect to  
20 a 9/11 crash site.”;

21           (3) by inserting after paragraph (10), as so re-  
22 designated, the following new paragraph and redesi-  
23 gnating the subsequent paragraphs accordingly:

24           “(11) IMMEDIATE AFTERMATH.—The term ‘im-  
25 mediate aftermath’ means any period beginning with

1 the terrorist-related aircraft crashes of September  
2 11, 2001, and ending on August 30, 2002.”; and

3 (4) by adding at the end the following new  
4 paragraph:

5 “(14) 9/11 CRASH SITE.—The term ‘9/11 crash  
6 site’ means—

7 “(A) the World Trade Center site, Pen-  
8 tagon site, and Shanksville, Pennsylvania site;

9 “(B) the buildings or portions of buildings  
10 that were destroyed as a result of the terrorist-  
11 related aircraft crashes of September 11, 2001;

12 “(C) any area contiguous to a site of such  
13 crashes that the Special Master determines was  
14 sufficiently close to the site that there was a de-  
15 monstrable risk of physical harm resulting from  
16 the impact of the aircraft or any subsequent  
17 fire, explosions, or building collapses (including  
18 the immediate area in which the impact oc-  
19 curred, fire occurred, portions of buildings fell,  
20 or debris fell upon and injured individuals); and

21 “(D) any area related to, or along, routes  
22 of debris removal, such as barges and Fresh  
23 Kills.”.



1 **SEC. 202. EXTENDED AND EXPANDED ELIGIBILITY FOR**  
2 **COMPENSATION.**

3 (a) INFORMATION ON LOSSES RESULTING FROM DE-  
4 BRIS REMOVAL INCLUDED IN CONTENTS OF CLAIM  
5 FORM.—Section 405(a)(2)(B) of the Air Transportation  
6 Safety and System Stabilization Act (49 U.S.C. 40101  
7 note) is amended—

8 (1) in clause (i), by inserting “, or debris re-  
9 moval during the immediate aftermath” after “Sep-  
10 tember 11, 2001”;

11 (2) in clause (ii), by inserting “or debris re-  
12 moval during the immediate aftermath” after  
13 “crashes”; and

14 (3) in clause (iii), by inserting “or debris re-  
15 moval during the immediate aftermath” after  
16 “crashes”.

17 (b) EXTENSION OF DEADLINE FOR CLAIMS UNDER  
18 SEPTEMBER 11TH VICTIM COMPENSATION FUND OF  
19 2001.—Section 405(a)(3) of such Act is amended to read  
20 as follows:

21 “(3) LIMITATION.—

22 “(A) IN GENERAL.—Except as provided by  
23 subparagraph (B), no claim may be filed under  
24 paragraph (1) after the date that is 2 years  
25 after the date on which regulations are promul-  
26 gated under section 407(a).

1           “(B) EXCEPTION.—A claim may be filed  
2           under paragraph (1), in accordance with sub-  
3           section (c)(3)(A)(i), by an individual (or by a  
4           personal representative on behalf of a deceased  
5           individual) during the period beginning on the  
6           date on which the regulations are updated  
7           under section 407(b) and ending on December  
8           22, 2031.”.

9           (c) REQUIREMENTS FOR FILING CLAIMS DURING  
10          EXTENDED FILING PERIOD.—Section 405(c)(3) of such  
11          Act is amended—

12                 (1) by redesignating subparagraphs (A) and  
13                 (B) as subparagraphs (B) and (C), respectively; and

14                 (2) by inserting before subparagraph (B), as so  
15          redesignated, the following new subparagraph:

16                         “(A) REQUIREMENTS FOR FILING CLAIMS  
17                         DURING EXTENDED FILING PERIOD.—

18                                 “(i) TIMING REQUIREMENTS FOR FIL-  
19                                 ING CLAIMS.—An individual (or a personal  
20                                 representative on behalf of a deceased indi-  
21                                 vidual) may file a claim during the period  
22                                 described in subsection (a)(3)(B) as fol-  
23                                 lows:

24   “(I) In the case that the Special  
25   Master determines the individual

1 knew (or reasonably should have  
2 known) before the date specified in  
3 clause (iii) that the individual suffered  
4 a physical harm at a 9/11 crash site  
5 as a result of the terrorist-related air-  
6 craft crashes of September 11, 2001,  
7 or as a result of debris removal, and  
8 that the individual knew (or should  
9 have known) before such specified  
10 date that the individual was eligible to  
11 file a claim under this title, the indi-  
12 vidual may file a claim not later than  
13 the date that is 2 years after such  
14 specified date.

15 “(II) In the case that the Special  
16 Master determines the individual first  
17 knew (or reasonably should have  
18 known) on or after the date specified  
19 in clause (iii) that the individual suf-  
20 fered such a physical harm or that the  
21 individual first knew (or should have  
22 known) on or after such specified date  
23 that the individual was eligible to file  
24 a claim under this title, the individual  
25 may file a claim not later than the

1 last day of the 2-year period begin-  
2 ning on the date the Special Master  
3 determines the individual first knew  
4 (or should have known) that the indi-  
5 vidual both suffered from such harm  
6 and was eligible to file a claim under  
7 this title.

8 “(ii) OTHER ELIGIBILITY REQUIRE-  
9 MENTS FOR FILING CLAIMS.—An indi-  
10 vidual may file a claim during the period  
11 described in subsection (a)(3)(B) only if—

12 “(I) the individual was treated by  
13 a medical professional for suffering  
14 from a physical harm described in  
15 clause (i)(I) within a reasonable time  
16 from the date of discovering such  
17 harm; and

18 “(II) the individual’s physical  
19 harm is verified by contemporaneous  
20 medical records created by or at the  
21 direction of the medical professional  
22 who provided the medical care.

23 “(iii) DATE SPECIFIED.—The date  
24 specified in this clause is the date on which

1                   the regulations are updated under section  
2                   407(a).”.

3           (d) CLARIFYING APPLICABILITY TO ALL 9/11 CRASH  
4 SITES.—Section 405(c)(2)(A)(i) of such Act is amended  
5 by striking “or the site of the aircraft crash at Shanksville,  
6 Pennsylvania” and inserting “the site of the aircraft crash  
7 at Shanksville, Pennsylvania, or any other 9/11 crash  
8 site”.

9           (e) INCLUSION OF PHYSICAL HARM RESULTING  
10 FROM DEBRIS REMOVAL.—Section 405(c) of such Act is  
11 amended in paragraph (2)(A)(ii), by inserting “or debris  
12 removal” after “air crash”.

13           (f) LIMITATIONS ON CIVIL ACTIONS.—

14               (1) APPLICATION TO DAMAGES RELATED TO  
15 DEBRIS REMOVAL.—Clause (i) of section  
16 405(c)(3)(C) of such Act, as redesignated by sub-  
17 section (c), is amended by inserting “, or for dam-  
18 ages arising from or related to debris removal” after  
19 “September 11, 2001”.

20               (2) PENDING ACTIONS.—Clause (ii) of such sec-  
21 tion, as so redesignated, is amended to read as fol-  
22 lows:

23                               “(ii) PENDING ACTIONS.—In the case  
24 of an individual who is a party to a civil  
25 action described in clause (i), such indi-

1           vidual may not submit a claim under this  
2           title—

3                   “(I) during the period described  
4                   in subsection (a)(3)(A) unless such in-  
5                   dividual withdraws from such action  
6                   by the date that is 90 days after the  
7                   date on which regulations are promul-  
8                   gated under section 407(a); and

9                   “(II) during the period described  
10                   in subsection (a)(3)(B) unless such in-  
11                   dividual withdraws from such action  
12                   by the date that is 90 days after the  
13                   date on which the regulations are up-  
14                   dated under section 407(b).”.

15           (3) AUTHORITY TO REINSTITUTE CERTAIN  
16           LAWSUITS.—Such section, as so redesignated, is fur-  
17           ther amended by adding at the end the following  
18           new clause:

19                   “(iii) AUTHORITY TO REINSTITUTE  
20                   CERTAIN LAWSUITS.—In the case of a  
21                   claimant who was a party to a civil action  
22                   described in clause (i), who withdrew from  
23                   such action pursuant to clause (ii), and  
24                   who is subsequently determined to not be  
25                   an eligible individual for purposes of this

1 subsection, such claimant may reinstitute  
2 such action without prejudice during the  
3 90-day period beginning after the date of  
4 such ineligibility determination.”.

5 **SEC. 203. REQUIREMENT TO UPDATE REGULATIONS.**

6 Section 407 of the Air Transportation Safety and  
7 System Stabilization Act (49 U.S.C. 40101 note) is  
8 amended—

9 (1) by striking “Not later than” and inserting  
10 “(a) IN GENERAL.—Not later than”; and

11 (2) by adding at the end the following new sub-  
12 section:

13 “(b) UPDATED REGULATIONS.—Not later than 90  
14 days after the date of the enactment of the James Zadroga  
15 9/11 Health and Compensation Act of 2009, the Special  
16 Master shall update the regulations promulgated under  
17 subsection (a) to the extent necessary to comply with the  
18 provisions of title II of such Act.”.

19 **SEC. 204. LIMITED LIABILITY FOR CERTAIN CLAIMS.**

20 Section 408(a) of the Air Transportation Safety and  
21 System Stabilization Act (49 U.S.C. 40101 note) is  
22 amended by adding at the end the following new para-  
23 graphs:

24 “(4) LIABILITY FOR CERTAIN CLAIMS.—

1           “(A) IN GENERAL.—Notwithstanding any  
2 other provision of law, subject to subparagraph  
3 (B), liability for all claims and actions (includ-  
4 ing claims or actions that have been previously  
5 resolved, that are currently pending, and that  
6 may be filed through December 22, 2031) for  
7 compensatory damages, contribution or indem-  
8 nity, or any other form or type of relief, arising  
9 from or related to debris removal, against the  
10 City of New York, any entity (including the  
11 Port Authority of New York and New Jersey)  
12 with a property interest in the World Trade  
13 Center on September 11, 2001 (whether fee  
14 simple, leasehold or easement, or direct or indi-  
15 rect), and any contractors and subcontractors  
16 thereof, shall not be in an amount that exceeds  
17 the sum of the following:

18                   “(i) The amount of funds of the WTC  
19 Captive Insurance Company, including the  
20 cumulative interest.

21                   “(ii) The amount of all available in-  
22 surance identified in schedule 2 of the  
23 WTC Captive Insurance Company insur-  
24 ance policy.



1           “(iii) The amount that is the greater  
2           of the City of New York’s insurance cov-  
3           erage or \$350,000,000. In determining the  
4           amount of the City’s insurance coverage  
5           for purposes of the previous sentence, any  
6           amount described in clauses (i) and (ii)  
7           shall not be included.

8           “(iv) The amount of all available li-  
9           ability insurance coverage maintained by  
10          any entity, including the Port Authority of  
11          New York and New Jersey, with a prop-  
12          erty interest in the World Trade Center,  
13          on September 11, 2001, whether fee sim-  
14          ple, leasehold or easement, or direct or in-  
15          direct.

16          “(v) The amount of all available liabil-  
17          ity insurance coverage maintained by con-  
18          tractors and subcontractors.

19          “(B)   EXCEPTION.—Subparagraph   (A)  
20          shall not apply to claims or actions based upon  
21          conduct held to be intentionally tortious in na-  
22          ture or to acts of gross negligence or other such  
23          acts to the extent to which punitive damages  
24          are awarded as a result of such conduct or acts.

1           “(5) PRIORITY OF CLAIMS PAYMENTS.—Pay-  
2           ments to plaintiffs who obtain a settlement or judg-  
3           ment with respect to a claim or action to which  
4           paragraph (4)(A) applies, shall be paid solely from  
5           the following funds in the following order:

6                   “(A) The funds described in clause (i) or  
7                   (ii) of paragraph (4)(A).

8                   “(B) If there are no funds available as de-  
9                   scribed in clause (i) or (ii) of paragraph (4)(A),  
10                  the funds described in clause (iii) of such para-  
11                  graph.

12                  “(C) If there are no funds available as de-  
13                  scribed in clause (i), (ii), or (iii) of paragraph  
14                  (4)(A), the funds described in clause (iv) of  
15                  such paragraph.

16                  “(D) If there are no funds available as de-  
17                  scribed in clause (i), (ii), (iii), or (iv) of para-  
18                  graph (4)(A), the funds described in clause (v)  
19                  of such paragraph.

20           “(6) DECLARATORY JUDGMENT ACTIONS AND  
21           DIRECT ACTION.—Any party to a claim or action to  
22           which paragraph (4)(A) applies may, with respect to  
23           such claim or action, either file an action for a de-  
24           claratory judgment for insurance coverage or bring

1 a direct action against the insurance company in-  
2 volved.”.

○