Congressional Research Service
Informing the legislative debate since 1914

MEMORANDUM May 6, 2015

To: The Honorable Carolyn Maloney
Attention: Elizabeth Darnall

From: Sarah A. Lister, Specialist in Public Health and Epidemiology, slister@crs.loc.gov, 7-7320

Subject: **Comparison of Current Law and the James Zadroga 9/11 Health and Compensation Reauthorization Act, H.R. 1786 and S. 928, as Introduced**

This memorandum (**Table 1**) compares provisions in current law with those in the James Zadroga 9/11 Health and Compensation Reauthorization Act (henceforth referred to as the Reauthorization Act). The Reauthorization Act was introduced as substantively identical bills in the House (H.R. 1786) and Senate (S. 928) on April 14, 2015. It would reauthorize the World Trade Center Health Program (WTCHP) and the September 11th Victim Compensation Fund (VCF). All references to "the Secretary" in this memorandum refer to the Secretary of Health and Human Services (HHS).

Information from this memorandum is of general interest to Congress. As such, this information may be provided to other congressional requesters, and may be published in CRS products for general distribution to Congress at a later date. In any case, your confidentiality as a requester would be preserved. Please contact me if I may be of further assistance.

Table 1. Comparison of Current Law and the James Zadroga 9/11 Health and Compensation Reauthorization Act, H.R. 1786 and S. 928, as Introduced

Current Law	H.R. 1786 IH / S. 928 IS
THE WORLD TRADE CENTER HEALTH PROGRAM (WTCHP) **Title XXXIII of the Public Health Service Act**	
Public Health Service Act (PHSA) Sec. 3301 [42 USC 300mm] establishes the *World Trade Center Health Program (WTCHP)* within HHS to provide: (1) medical monitoring and treatment benefits to eligible emergency responders and recovery and clean-up workers (including federal employees) who responded to the terrorist attacks on the World Trade Center (WTC) in New York City (NYC) on September 11, 2001 (9/11); and (2) initial health evaluation, monitoring, and treatment benefits to eligible residents and other building occupants and area workers in NYC who were affected by such attacks. WTCHP components include: • *Medical monitoring for responders,* under PHSA Sec. 3311; • *Initial health evaluation for survivors* (generally non-responders or members of the community), under PHSA Sec. 3321; • *Follow-up monitoring, treatment and payment* for responders and survivors with a WTC-related health condition, under PHSA Secs. 3312, 3322, and 3323; • *Outreach* to potentially eligible individuals concerning benefits to which they are entitled, under PHSA Sec. 3303; • *Clinical data collection and analysis*, under PHSA Secs. 3304 and 3342; and • *Research* on WTC-related health conditions, under PHSA Secs. 3341 and 3342. The HHS Inspector General must implement fraud prevention measures and monitor administrative costs for the WTCHP. The WTCHP is considered a federal health care program and a health plan for the purposes of applying Secs. 1128 through 1128E of the Social Security Act (which excludes certain persons, such as convicted criminals, from the program, and addresses fraud, waste, and abuse). The WTCHP Administrator (the Administrator) must work with Clinical Centers of Excellence to establish a quality assurance program for medical monitoring and treatment services provided by the WTCHP. The Administrator is required annually, not more than six months after the end of each fiscal year in which the WTCHP is in operation, to report to Congress on the operations of the program, including specified types of information regarding numbers of eligible program participants, WTC-related health conditions, health services provided, administrative costs, and other matters. The Secretary of HHS must promptly notify the Congress if the number of enrollments of eligible WTC responders or the number of certifications for certified-eligible WTC survivors reaches 80% of the limits for either group, as established under PHSA Secs. 3311 or 3321, respectively. The Administrator must engage in ongoing outreach efforts regarding program implementation and improvements with relevant stakeholders, including the WTCHP Steering Committees and the Advisory Committee established under PHSA Sec. 3302.	*Subsection 2(b), Regulations,* would amend PHSA Sec. 3301, adding a new subsection (i) to explicitly authorize the Secretary to promulgate regulations as necessary to administer the WTCHP.

Current Law	H.R. 1786 IH / S. 928 IS
PHSA Sec. 3302 [42 USC 300mm–1] requires the Administrator to establish the WTCHP Scientific/Technical Advisory Committee (the Advisory Committee), subject to the Federal Advisory Committee Act, to review scientific and medical evidence and make recommendations to the Administrator on additional WTCHP eligibility criteria and additional WTC-related health conditions. This section also establishes committee membership, and requirements for meetings and public reporting. The Advisory Committee shall continue in operation during the period in which the WTCHP is in operation. The Administrator also is required to establish and consult with two WTCHP steering committees—the WTC Responders Steering Committee and the WTC Survivors Steering Committee—to facilitate the coordination of initial health evaluation, medical monitoring, and treatment programs for eligible WTC responders and survivors. For each committee, requirements and procedures are established for membership, and management of vacancies.	No amending language.
PHSA Sec. 3303 [42 USC 300mm–2] requires the Administrator to establish a program to provide education and outreach regarding services available under the WTCHP. The program shall include the development of a public website and phone information services, meetings with potentially eligible populations, and outreach materials. The education and outreach program must be conducted in a manner intended to reach all affected populations and include materials for culturally and linguistically diverse populations.	No amending language.
PHSA Sec. 3304 [42 USC 300mm–3] requires the Administrator to provide for the collection, analysis, and reporting of data (including claims data) on the prevalence of WTC-related health conditions and the identification of new WTC-related health conditions. Data must be collected for all persons receiving monitoring or treatment services regardless of their place of residence or the location at which services are provided. Clinical Centers of Excellence must collect and report such data to the corresponding Data Center. The Administrator must provide for collaboration between the Data Centers and the WTC Health Registry described in PHSA Sec. 3342. Data collection and analysis must comply with applicable privacy laws and regulations, including the Health Insurance Portability and Accountability Act (HIPAA).	No amending language.
PHSA Sec. 3305 [42 USC 300mm–4] requires the Administrator to establish, by entering into contracts, Clinical Centers of Excellence and Data Centers. Specific Clinical Centers of Excellence and Data Centers are termed corresponding if they serve the same population. Contracts with Clinical Centers of Excellence and Data Centers may be specific with respect to one or more classes of enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors. Clinical Centers of Excellence shall provide: monitoring, initial health evaluation, and treatment benefits; outreach activities and benefits counseling to eligible individuals; translational and interpretive services for eligible individuals, if needed; and collection and reporting of data (including claims data) pursuant to PHSA Sec. 3304. In addition, this section specifies requirements the Clinical Centers of Excellence must meet, including requirements for contracts awarded by the Administrator to the Centers. The Administrator must, to the maximum extent feasible, ensure continuity of care during transitions between services provided through a Clinical Center of Excellence and through the nationwide network.	*Subsection 2(c), Clinical Centers of Excellence and Data Centers*, would amend PHSA Sec. 3305 to clarify that Clinical Centers of Excellence would be contracted to, among other things, provide activities to retain individuals who are eligible for program benefits. It also would clarify that Data Centers would be contracted to, among other things, evaluate data on any newly identified WTC-related health conditions, and coordinate retention activities carried out by Clinical Centers of Excellence.

Current Law	H.R. 1786 IH / S. 928 IS
Clinical Centers of Excellence shall be reimbursed by the Administrator for fixed infrastructure costs at negotiated rates. Such costs are defined as costs incurred by the Center that are not reimbursable as health care services under PHSA Sec. 3312(c) for patient evaluation, monitoring, or treatment. Such costs include those for outreach or recruiting of participants, data collection and analysis, social services for counseling patients about assistance outside the WTCHP, and the development of treatment protocols. Infrastructure costs do not include costs for new construction or other capital costs. The Comptroller General shall, by July 1, 2011, report to Congress on whether Clinical Centers of Excellence given contracts under this section have financial systems that allow for the timely submission of claims data for purposes of this section and PHSA Sec. 3304. Data Centers shall provide: data analysis and reporting to the Administrator; development of initial health evaluation, medical monitoring, and treatment protocols for WTC-related conditions; coordination of outreach activities; criteria for the credentialing of providers in the nationwide clinical network established under PHSA Sec. 3313; coordination and administration of the activities of the steering committees; and meeting periodically with the corresponding Clinical Centers of Excellence to obtain input on the analysis and reporting of data and the development of monitoring and treatment protocols. Credentialed medical providers in the national clinical network shall be selected by the Administrator based on their expertise diagnosing or treating medical conditions included in the list of identified WTC-related health conditions for responders and identified conditions for survivors. In developing evaluation, monitoring, and treatment protocols, Data Centers shall engage in discussions across the program to guide treatment approaches for individuals with WTC-related health and mental health conditions. Data Centers also shall be required to make any data collected and reported available to health researchers and others as per the CDC/ATSDR Policy on Releasing and Sharing Data.	
PHSA Sec. 3306 [42 USC 300mm–5] provides numerous definitions. Among them: The term *NYC disaster area* is defined as the area within NYC that is in Manhattan south of Houston St.; and any block in Brooklyn that is wholly or partially contained within a 1.5-mile radius of the former WTC site. The term *WTC Program Administrator* is defined as follows: • an HHS official designated by the Secretary of HHS for the purposes of enrollment of WTC responders; the payment for initial health evaluation, monitoring, and treatment; the determination or certification of screening-eligible or certified-eligible WTC responders; and the payor provisions of Part 3 of Subtitle B. However, the Secretary may not designate the Director of the National Institute for Occupational Safety and Health (NIOSH) or a designee of such director for the purposes of payment for initial health evaluation, monitoring, and treatment; and • the Director of NIOSH or a designee of such director for the purposes of all other provisions of Title I. The term *September 11, 2001 terrorist attacks* is defined as the terrorist attacks that occurred on September 11, 2001 in NYC; Shanksville, Pennsylvania; and the Pentagon, and the aftermath of such attacks.	No amending language.

Current Law	H.R. 1786 IH / S. 928 IS
PHSA Sec. 3311 [42 USC 300mm–21] defines eligibility criteria for WTC responders, provides an application and certification process, sets limits on the number of eligible participants, and describes available monitoring benefits. No person on a terrorist watch list maintained by the Department of Homeland Security (DHS) may qualify as a WTC responder. A currently identified responder is an individual who has been identified as eligible for medical monitoring under the arrangements between NIOSH and the consortium coordinated by Mt. Sinai hospital, or between NIOSH and the Fire Department of New York City (FDNY). The section establishes eligibility criteria for WTC responders, generally based on specified time ranges and specified locations, for the following groups: • FDNY personnel, and, under specified conditions, their surviving immediate family members; • Law enforcement, rescue, recovery, and clean-up workers; and • Responders to the Pentagon and Shanksville, Pennsylvania aircraft crash sites. The section also establishes modified eligibility criteria for individuals who performed rescue, recovery, or clean-up services in the NYC disaster area in response to the September 11, 2001 attacks on the WTC, regardless of whether such services were performed by a state or federal employee or member of the National Guard; and who meets eligibility criteria established by the Administrator in consultation with the Advisory Committee. No modifications of eligibility criteria may be made after the number of certifications for eligible responders has reached 80% of the limit established in PHSA Sec. 3311(a)(4) or after the number of certifications for certified-eligible survivors has reached 80% of the limit established in PHSA Sec. 3321(a)(3). The Administrator shall establish an application process for new enrollments of WTC responders. There will be no fee for this application; a decision on each application shall be made within 60 days of the date it was filed; and persons denied will have the right to appeal in a manner established by the Administrator. There is a numerical limit of 25,000 eligible WTC responders, of which no more than 2,500 may be certified based on modified eligibility criteria. (This limit excludes responders enrolled as of enactment.) The Administrator must limit certifications to ensure sufficient funds are available to provide treatment and monitoring for all individuals enrolled through the end of FY2020; and must provide priority in certifications based on the order in which a person applies. Monitoring benefits (which are available to eligible responders, but not to family members) are defined as initial health evaluation, clinical examinations, and long-term health monitoring and analysis, to be provided by the FDNY, the appropriate Clinical Center of Excellence, or other providers designated under PHSA Sec. 3313 for eligible individuals outside New York.	*Subsection 2(d), World Trade Center Responders*, would amend PHSA Sec. 3311(a)(4), the authority that limits the number of eligible WTC responders, by striking the reference to "the end of fiscal year 2020" in directing the WTCHP Administrator to consider the adequacy of funding when conducting enrollments.

Current Law	H.R. 1786 IH / S. 928 IS
PHSA Sec. 3312 [42 USC 300mm–22] provides procedures to determine (1) whether an eligible individual has a WTC-related health condition, (2) whether the condition is WTC-related for that individual, and (3) whether proposed treatments are medically necessary. This section defines WTC-related health conditions for which eligible responders may receive treatment, and how such determinations are to be made. These include conditions (including mental health conditions) that are substantially likely to have resulted or been aggravated from exposure to airborne toxins or other hazards arising from the 2001 terrorist attacks, including the conditions listed in PHSA Sec. 3312(a)(3). Eligible responders may receive treatment benefits for these conditions. Immediate family members of firefighters killed as a result of the attacks may only receive treatment benefits for mental health conditions. This section also describes the process to determine whether the 2001 terrorist attacks were substantially likely to have aggravated, contributed to, or caused an illness or health condition in an individual. The Administrator shall periodically determine if types of cancer should be included on the list of WTC-related conditions, based on review of published evidence. Additions to the list must be made by regulation. If it is determined that a type of cancer should not be added to the list, the Administrator shall publish an explanation in the Federal Register. This section specifies procedures for rulemaking to add, or decline to add, a condition to the list of WTC-related conditions, including consultation with the Advisory Committee, publication in the Federal Register, and pertinent deadlines. This section also specifies procedures for the Administrator to certify that an individual has a WTC-related health condition, or is otherwise eligible for benefits due to a health condition not on the list of WTC-related health conditions; or to provide a basis for denial of such certification and a means for appeal. The Administrator shall determine whether a specific treatment for a WTC-related health condition is medically necessary, in accordance with regulations he or she establishes. Payment shall be withheld if the Administrator determines that a treatment is not medically necessary. The determination that a treatment or service is not medically necessary may be appealed through a process established by regulation. This section describes the types of health services that may be covered, including limited travel and transportation costs. This section establishes processes to set the costs for reimbursement of health benefits. In general, except for pharmaceuticals, the Administrator shall reimburse costs for medically necessary treatment for WTC-related health conditions according to the payment rates that would apply under the Federal Employees Compensation Act (FECA). The Administrator shall establish a program to pay for medically necessary outpatient prescription pharmaceuticals prescribed for WTC-related conditions through a specified competitive bidding process to award contracts to outside vendors. The Administrator may modify the amounts and methodologies for making payments for initial health evaluations, treatment, and monitoring if, taking into account utilization and quality data from the Clinical Centers, he or she determines that bundling, capitation, pay for performance, or other payment methodologies would better ensure high-quality and efficient delivery of services. The Data Centers shall develop medical treatment protocols for the treatment of WTC-related health conditions, and the Administrator shall review and approve the treatment protocols.	No amending language.

Current Law	H.R. 1786 IH / S. 928 IS
PHSA Sec. 3313 [42 USC 300mm–23] requires the Administrator to establish a nationwide network of health providers to provide benefits to persons outside of the New York metropolitan area. To be included in this network, a provider must meet the criteria for credentialing established by the Data Centers, follow medical protocols established under PHSA Sec. 3305(a)(2)(A)(ii), collect and report data in accordance with PHSA Sec. 3304, and meet fraud and other requirements established by the Administrator. The Administrator may provide training and technical assistance to nationwide network providers. The Administrator may enter into an agreement with the Department of Veterans Affairs (VA) to provide services through VA facilities.	No amending language.
PHSA Sec. 3321 [42 USC 300mm–31] defines eligibility criteria for eligible WTC survivors (generally non-responders or members of the community), provides an application and certification process, sets limits on the number of eligible participants, and describes available monitoring benefits. No person on a terrorist watch list maintained by DHS may qualify as an eligible WTC survivor. The section establishes eligibility criteria for WTC survivors, generally based on specified time ranges and specified locations. No modifications of eligibility criteria may be made after the number of certifications for eligible survivors has reached 80% of the limit established in PHSA Sec. 3321(a)(3) (noted below), or after the number of certifications for eligible responders has reached 80% of the limit established in PHSA Sec. 3311(a)(4). The Administrator shall establish an application process for new enrollments of WTC survivors. There will be no fee for this application; a decision on each application shall be made within 60 days of the date it was filed; and persons denied will have the right to appeal in a manner established by the Administrator. There is a numerical limit of 25,000 certified-eligible WTC survivors. (This limit excludes survivors enrolled as of enactment.) The Administrator must limit certifications to ensure sufficient funds are available to provide treatment and monitoring for all individuals enrolled through the end of FY2020, and must prioritize certifications based on the order in which a person applies.	*Subsection 2(e), World Trade Center Survivors*, would amend PHSA Sec. 3321(a)(3), the authority that limits the number of eligible WTC survivors, by striking the reference to "the end of fiscal year 2020" in directing the WTCHP Administrator to consider the adequacy of funding when conducting enrollments.
PHSA Sec. 3322 [42 USC 300mm–32] states that the provisions of PHSA Secs. 3311 and 3312 shall apply to monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors in the same manner as such provisions apply to WTC responders. The list of WTC-related health conditions for survivors is the same as the list of WTC-related health conditions for responders provided in PHSA Sec 3312, with the exception that musculoskeletal conditions are not included on the list for survivors. Conditions, including cancer, that are added to the list of WTC-related health conditions for responders are also added to the list of WTC-related health conditions for survivors.	No amending language.
PHSA Sec. 3323 [42 USC 300mm–33] establishes that treatment services shall be provided to individuals who are not certified as WTC responders or survivors if any such individual is diagnosed at a Clinical Center of Excellence with an identified WTC-related condition for WTC survivors. The Administrator shall limit the total amount of benefits provided to such individuals in a given fiscal year so that program	No amending language.

Current Law	H.R. 1786 IH / S. 928 IS
payments for that year do not exceed $5 million for the last calendar quarter of FY2011; $20 million for FY2012; and, for subsequent fiscal years, the previous fiscal year's amount increased by the annual percentage increase in the medical care component of the Consumer Price Index for all urban consumers.	
PHSA Sec. 3331[42 USC 300mm–41] provides that all costs of covered initial health evaluation, medical monitoring, and treatment benefits for eligible individuals shall be paid from the WTCHP Fund, except for any costs that are paid by a workers' compensation program or health insurance plan. Payment for treatment of a WTC-related health condition that is work-related (as defined) shall be reduced or recouped by any amounts paid under a workers' compensation law or plan for such treatment. This provision does not apply to any workers' compensation or similar plan in which NYC is required to make payments if, in accordance with the terms of the contract specified in PHSA Sec. 3331(d), NYC has made full payment required for that quarter. For eligible beneficiaries who have health insurance coverage and have been diagnosed with a WTC-related condition that is not work-related, the WTC Program shall be a secondary payor of all uninsured costs (such as co-pays and deductibles) related to services covered by the WTC program, according to the authority used when Medicare is a secondary payor. This provision does not require an entity that provides monitoring and treatment under this title to seek reimbursement from a health plan with which it does not have a contract for reimbursement. No payment for monitoring or treatment may be made for any individual for any month, beginning with July 2014, in which he or she does not have the applicable minimum essential health coverage required under Sec. 5000A(a) of the Internal Revenue Code, as established by the Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended). There is a required contribution by NYC. No funds may be disbursed from the WTCHP Fund under PHSA Sec. 3351 unless NYC has entered into a contract with the Administrator to pay the full contribution on a timely basis. The full contribution amount for the last calendar quarter in FY2011 and each calendar quarter of FYs 2012 through 2015 shall be equal to 10% of the expenditures in carrying out the WTCHP for the respective quarter. The full contribution amount for each calendar quarter of FY2016 shall be equal to 1/9 of the federal expenditures in carrying out Title I for the respective quarter. The NYC contribution may not be satisfied through any amount derived from federal sources, any amount paid before enactment, or any amount paid to satisfy a judgment as part of a settlement related to injuries or illnesses arising out of the September 11, 2001 attacks on the WTC. Payment deadlines and procedures for recovery of unpaid amounts are specified.	*Subsection 2(f), Payment of Claims,* would amend PHSA Sec. 3331(d) to permanently extend the matching obligation for NYC to pay 10% of total WTCHP costs, without any other modification of terms.
PHSA Sec. 3332 [42 USC 300mm–42] provides that the Administrator shall enter into arrangements with other government agencies, insurance companies, or other third-party administrators to provide for timely and accurate processing of claims.	No amending language.
PHSA Sec. 3341 [42 USC 300mm–51] requires the Administrator, in consultation with the Advisory Committee, to conduct or support research on conditions that may be related to the WTC terrorist attacks; diagnoses of WTC-related health conditions for which there has been diagnostic uncertainty; and treatment of WTC-related health conditions for which there has been treatment uncertainty.	No amending language.

Current Law	H.R. 1786 IH / S. 928 IS
The research on conditions that may be related to the September 11, 2001 terrorist attacks on the WTC must include epidemiologic or other research studies on WTC-related health conditions or emerging conditions among enrolled WTC responders and certified-eligible WTC survivors under treatment and in sampled populations outside of the NYC disaster area, as specified. Control groups must be used. This research must have privacy and human subject protections at least as strong as those applicable to research conducted or funded by HHS.	
PHSA Sec. 3342 [42 USC 300mm–52] requires the Administrator to ensure the operation of a registry of victims of the WTC attacks that is at least as comprehensive as the World Trade Center Health Registry in effect as of April 2009 with the NYC Department of Health and Mental Hygiene.	*Subsection 2(g), World Trade Center Health Registry,* would revise PHSA Sec. 3342 to clarify that the Administrator shall maintain a registry of victims of the September 11, 2001 attacks that is at least as comprehensive as the registry maintained by the NYC Department of Health and Mental Hygiene as of January 1, 2015.
PHSA Sec. 3351 [42 USC 300mm–61] establishes a WTCHP Fund (the Fund) and deposits into the Fund from the Treasury for each of FYs 2012 through 2016 and the last calendar quarter of FY2011 an amount equal to the lesser of 90% of the expenditures in carrying out the WTCHP or the following amounts: • Last calendar quarter of FY2011: $71 million; • FY2012: $318 million; • FY2013: $354 million; • FY2014: $382 million; • FY2015: $431 million; • FY2016: Any unexpended funds from previous fiscal years, provide that total federal spending does not exceed the sum of the maximum federal spending for FYs 2011 through 2015 ($1.556 billion). No funds may be disbursed from the Fund unless NYC has entered into contract with the Administrator to pay its contribution. If NYC fails to pay its full contribution, the amount not paid is recoverable by the federal government. Such failure shall not affect the disbursement of amounts from the Fund, and the federal share shall not be increased by the amount not paid by NYC. The amounts deposited into the Fund shall be available, without further appropriation, to carry out the following activities: • Monitoring and treatment for WTC responders and survivors (PHSA Title XXXIII, Subtitle B); • The Advisory Committee (PHSA Sec. 3302(a)); • Education and outreach (PHSA Sec. 3303); • Uniform data collection and analysis (PHSA Sec. 3304); • Data Centers (PHSA 3305(a)(2)); • Research regarding WTC-related health conditions (PHSA Sec. 3341); and • The WTC Health Registry (PHS Sec. 3342). There is no federal obligation for payment of amounts in excess of	*Subsection 2(a)(1)* would amend PHSA Sec. 3351(a) to permanently reauthorize the WTCHP Fund (the Fund). It would authorize the appropriation of $431 million for the federal share of the program for FY2015, and, for each subsequent fiscal year, the amount for the prior fiscal year increased by the increase in the medical care component of the Consumer Price Index for all Urban Consumers (CPI-U), as estimated by the Secretary for the 12-month period ending with March of the previous year. It also would strike the current funding limitation for FY2016. Instead, it would allow any unexpended amounts provided prior to FY2015 to remain in the Fund. It would establish that all amounts deposited into the Fund would remain available until expended. *Subsection 2(a)(2)* would amend PHSA Sec. 3351(b) to add the following activities to the list of activities for which money deposited into the Fund may be used: • The quality assurance program for the monitoring and treatment delivered by the Centers of Excellence and any other participating health care providers (PHSA Sec. 3301(e)); • The WTCHP annual report (PHSA Sec. 3301(f)); • The WTCHP steering committees (PHSA Sec. 3302(b)); and • Contracts with the Clinical Centers of Excellence (PHSA Sec. 3305(a)(1)). *Subsection 2(a)(3)* would amend PHSA Section 3351(c) to change the inflationary adjuster for payments to immediate family members of firefighters (capped at $400,000 for FY2012) from the CPI-U to the medical care component of the CPI-U. It also would amend the cap on funding for the Advisory Committee as follows: • for FY2013 and FY2014, the amount for the

Current Law	H.R. 1786 IH / S. 928 IS
amounts available from the Fund for such purpose and no authorization for appropriation of amounts in excess of amounts available from the Fund. There are specified spending limits for certain activities for FY2012. The limit for each subsequent fiscal year is the prior fiscal year amount increased by the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U), as estimated by the Secretary for the 12-month period ending with March of the previous year. The specified activities and FY2012 spending limits are as follows: • Services to FDNY family members, $400,000; • The Advisory Committee, $100,000; • Education and outreach, $2 million; • Uniform data collection, $10 million; • Research regarding WTC-related health conditions, $15 million; and • The WTC Health Registry, $7 million.	prior fiscal year (starting with the FY2012 cap of $100,000) increased by the increase in the CPI-U; • for FY2015, $200,000; and • for each subsequent fiscal year, the FY2015 amount increased by the increase in the CPI-U. Finally, it would amend the cap on funding for uniform data collection as follows: • for FY2013 through FY2016, the amount for the prior fiscal year (starting with the FY2012 amount of $10 million) increased by the increase in the CPI-U; • for FY2017, $15 million; and • for each subsequent fiscal year, the amount for the prior fiscal year increased by the increase in the CPI-U.
SEPTEMBER 11th VICTIM COMPENSATION FUND (VCF) **The Air Transportation Safety and System Stabilization Act (ATSSSA, 49 USC 40101 note)**	
Sec. 401 of the Air Transportation Safety and System Stabilization Act (ATSSSA) is the short title, the September 11th Victim Compensation Fund of 2001 (VCF). ATSSSA Sec. 402 provides definitions.	No amending language.
ATSSSA Sec. 403 states the purpose of the program as follows: "It is the purpose of this title to provide compensation to any individual (or relative of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001."	*Subsection 3(a), Purpose,* would amend ATSSSA Sec. 403 to expand the stated purpose of the VCF through addition of the italicized language: "...to provide *full* compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001, *or the rescue and recovery efforts during the immediate aftermath of such crashes."*
ATSSSA Sec. 404 provides that the Attorney General, acting through his or her appointed Special Master of the VCF, shall administer the compensation program, promulgate program rules, and hire and supervise hearing officers and other necessary administrative staff. Sec. 404 also authorizes the appropriation of such sums as may be necessary for the Special Master's administrative costs.	No amending language.
ATSSSA Sec. 405(a)(1) permits a claimant to file a claim for compensation with the Special Master, requires that the claim be on the specified claim form, and requires that the claim state the factual basis for eligibility and the amount of compensation sought. ATSSSA Sec. Section 405(a)(2) requires the Special Master to develop a claim form to be used by claimants that must, if practical, be able to be submitted electronically. The claim form must request information from the claimant on physical harm or death caused by the terrorist-related crashes or subsequent debris removal, economic and non-economic losses suffered, and any collateral sources of compensation received or for which the claimant may be eligible. ATSSSA Sec. 405(a)(3) establishes deadlines for claimants to file claims, the latest deadline being five years from the publication of regulations revised to reflect an extended filing period, under specified	*Subsection 3(b), Timing and Requirements for Filing a Claim*, would amend ATSSSA Sec. 405(a)(3) to eliminate the existing statute of limitations (i.e., five years from the publication of regulations), and would make certain conforming amendments.

Current Law	H.R. 1786 IH / S. 928 IS
circumstances. ATSSSA Sec. 405(b) requires the Special Master to review claims submitted and determine whether the claimant is eligible; the extent of the harm to the claimant, including economic and noneconomic losses; and the amount of compensation to which the claimant is entitled, based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant. The Special Master is prohibited from considering negligence or any other theory of liability and is required to complete a review, make a determination, and provide written notice to claimants no later than 120 days after the date on which the claim is filed. Claimants are provided the right to legal representation, the right to present evidence and other due process rights the Special Master determines are appropriate. Compensation amounts cannot include amounts for punitive damages. The Special Master must reduce compensation amounts by the amount of collateral source compensation a claimant received or was entitled to receive as a result of the terrorist-related aircraft crashes. ATSSSA Sec. 405(c) describes eligibility for compensation, to include individuals present at a crash site at the time or in the immediate aftermath of the terrorist-related air crashes; flight crews and passengers on the flights; and persons harmed as a result of debris removal. This section also specifies when claimants must file, and medical information that must be submitted. Finally, this section generally prohibits a claimant from simultaneously filing or being a party to a civil action for damages sustained as a result of the air crashes or debris removal.	
ATSSSA Sec. 406 authorizes compensation payments to eligible individuals. It limits the total compensation payments provided under this title to $2.775 billion. Of this amount, $875 million shall be available to pay claims during the five-year period beginning on the date in which regulations are updated. The Special Master must ratably reduce the amount of compensation due to claimants to ensure that all claimants who, before the application of the $875 million five-year limit on compensation, would have been eligible for a payment receive a payment during the five-year period after the regulations are updated; and that the total amount of such payments made during the five-year period after the regulations are updated do not exceed the $875 million five-year limit on compensation. The difference between the claimant's actual award and the amount paid under a ratable reduction shall be paid in the year after the end of the five-year period after the regulations are updated. This section generally caps attorneys' fees at not more than 10% of an award made for a claim filed under the VCF, with specified exception. The Special Master may award a legal fee of less than 10% if he or she finds that the fee being charged in connection with a VCF claim is excessive.	*Subsection 3(c), Payments to Eligible Individuals*, would amend ATSSSA Section 406(d) to eliminate the $2.775 billion cap on total program payments, but it would retain the $875 million cap on total payments made during the first five years of the program, effective with the publication of updated program regulations. It also would eliminate the requirement to ratably reduce payments to account for the monetary cap on total program payments, while providing the Special Master the authority to reduce payments if necessary. It would, in cases for which an award were so reduced, allow the Special Master to pay the balance of the award to the claimant when funds became available, rather than requiring that such balance be paid between years five and six of the program. The subsection also would make certain conforming amendments.
ATSSSA Sec. 407(a) required the Attorney General, in consultation with the Special Master, to promulgate regulations for the program no later than 90 days after enactment (i.e., in 2001), for the forms to be used for submitting claims; information to be included in such forms; procedures for hearing and presenting evidence; procedures to assist an individual in filing and pursuing claims under the program; and other matters the Attorney General determines are appropriate. ATSSSA Sec. 407(b) required the Special Master to update the regulations originally promulgated (as above) to reflect the changes made	*Subsection 3(d), Regulations*, would amend ATSSSA Section 407(b) to require the Special Master to promulgate regulations to implement changes made by the Reauthorization Act within 180 days of its enactment.

Current Law	H.R. 1786 IH / S. 928 IS
by P.L.111-347 (extending the filing time for claims related to the airline crashes or debris removal) within 180 days of enactment of that law (i.e., in 2011).	
ATSSSA Sec. 408 establishes a federal cause of action for damages arising from the September 11, 2001 terrorist attacks, as the exclusive remedy for such damages. For actions under this section against air carriers, persons with property interests in the WTC and others, this section generally limits liability to insurance coverage maintained by that party. The Attorney General has discretion to waive this limit on liability if the party has defaulted willfully on a contractual obligation to rebuild or assist in the rebuilding of the WTC. Similar limitations on liability are provided for actions against NYC, the Port Authority of New York and New Jersey, and contractors and subcontractors. This section specifically states that it does not limit liability of any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. None of the limitations on liability or the provisions related to the federal cause of action established under Sec. 408 apply to civil actions to recover collateral source obligations.	No amending language.
ATSSSA Section 409 provides that the United States shall have the right of subrogation, with respect to any claim paid under the program, subject to the limitations provided in ATSSSA Sec. 408.	No amending language.
EXEMPTION FROM SEQUESTRATION	
The Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA, Title II of P.L. 99-177, 2 U.S.C. 900-922), authorizes, under specified conditions, the permanent cancellation of budgetary resources by a uniform percentage, in order to meet or enforce certain budget policy goals. This process is called *sequestration*. Sequestration may be triggered by, among other things, exceeding discretionary spending limits, or failing to meet deficit reduction targets. BBEDCA Sec. 255 contains a list of programs and activities–many of them mandatory benefit programs–that are exempt from sequestration. (For more information, see CRS Report R42050, *Budget "Sequestration" and Selected Program Exemptions and Special Rules*, coordinated by Karen Spar.)	*Subsection 4* would add both the VCF and the WTCHP Fund to the list of federal retirement and disability accounts and activities that are exempt from sequestration under BBEDCA Sec. 255(g)(1)(B), effective with any sequestration order issued under BBEDCA after enactment of the Reauthorization Act.

Source: Prepared by Congressional Research Service.