

110TH CONGRESS
2D SESSION

H. R. 7174

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.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2008

Mrs. MALONEY of New York (for herself, Mr. NADLER, Mr. FOSSELLA, Mr. KING of New York, Mr. RANGEL, Mr. ENGEL, Mr. TOWNS, Mr. WALSH of New York, Mr. KUHL of New York, Mr. MCHUGH, Mrs. MCCARTHY of New York, Mrs. LOWEY, Mr. HALL of New York, Mr. McNULTY, Mr. HINCHEY, Mr. ISRAEL, Mr. CROWLEY, Mrs. GILLIBRAND, Mr. ARCURI, Mr. SHAYS, Mr. SMITH of New Jersey, Ms. SLAUGHTER, Mr. HIGGINS, Ms. CLARKE, Mr. SERRANO, Mr. BISHOP of New York, Mr. ACKERMAN, and Mr. GARRETT of New Jersey) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on the Judiciary and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “James Zadroga 9/11 Health and Compensation Act of
4 2008”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 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 XXX—WORLD TRADE CENTER HEALTH PROGRAM

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

“Sec. 3001. Establishment of World Trade Center Health Program within
NIOSH.

“Sec. 3002. WTC Health Program Scientific/Technical Advisory Com-
mittee.

“Sec. 3003. WTC Health Program Steering Committees.

“Sec. 3004. Community education and outreach.

“Sec. 3005. Uniform data collection.

“Sec. 3006. Centers of excellence.

“Sec. 3007. Entitlement authorities.

“Sec. 3008. Definitions.

“Subtitle B—Program of Monitoring, Screening, and Treatment

“PART 1—FOR WTC RESPONDERS

“Sec. 3011. Identification of eligible WTC responders and provision of
WTC-related monitoring services.

“Sec. 3012. Treatment of certified eligible WTC responders for WTC-re-
lated health conditions.

“PART 2—COMMUNITY PROGRAM

“Sec. 3021. Identification and screening of eligible WTC community mem-
bers.

“Sec. 3022. Treatment of certified eligible WTC community members for
WTC-related health conditions.

“Sec. 3023. Treatment of other individuals with WTC-related health con-
ditions.

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

“Sec. 3031. National arrangement for benefits for eligible individuals out-
side New York.

“Subtitle C—Research Into Conditions

“Sec. 3041. 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. 3051. World Trade Center Health Registry.

“Sec. 3052. 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.

TITLE III—REVENUE PROVISIONS

Subtitle A—Codification of Economic Substance Doctrine

- Sec. 301. Codification of economic substance doctrine.
- Sec. 302. Penalties for underpayments.

Subtitle B—Prevention of Tax Treaty Exploitation to Evade United States Taxation

- Sec. 311. Limitation on treaty benefits for certain deductible payments.

Subtitle C—Corporate Estimated Taxes

- Sec. 321. Time for payment of corporate estimated taxes.

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, local residents, office and area work-
 6 ers, and school children continue to suffer significant
 7 medical problems as a result of compromised air
 8 quality and the release of other toxins from the at-
 9 tack sites.

10 (2) In a September 2006 peer-reviewed study
 11 conducted by the World Trade Center Medical Moni-

1 toring Program, of 9,500 World Trade Center re-
2 sponders, almost 70 percent of World Trade Center
3 responders had a new or worsened respiratory symp-
4 tom that developed during or after their time work-
5 ing at the World Trade Center; among the respond-
6 ers who were asymptomatic before 9/11, 61 percent
7 developed respiratory symptoms while working at the
8 World Trade Center; close to 60 percent still had a
9 new or worsened respiratory symptom at the time of
10 their examination; one-third had abnormal pul-
11 monary function tests; and severe respiratory condi-
12 tions including pneumonia were significantly more
13 common in the 6 months after 9/11 than in the
14 prior 6 months.

15 (3) An April 2006 study documented that, on
16 average, a New York City firefighter who responded
17 to the World Trade Center has experienced a loss of
18 12 years of lung capacity.

19 (4) A peer-reviewed study of residents who lived
20 near the World Trade Center titled “The World
21 Trade Center Residents’ Respiratory Health Study:
22 New Onset Respiratory Symptoms and Pulmonary
23 Function”, found that data demonstrated a three
24 fold increase in new-onset, persistent lower res-
25 piratory symptoms in residents near the former

1 World Trade Center as compared to a control popu-
2 lation.

3 (5) Previous research on the health impacts of
4 the devastation caused by the September 11 terrorist
5 attacks has shown relationships between the air
6 quality from Ground Zero and a host of health im-
7 pacts, including lower pregnancy rates, higher rates
8 of respiratory and lung disorders, and a variety of
9 post-disaster mental health conditions (including
10 posttraumatic stress disorder) in workers and resi-
11 dents near Ground Zero.

12 (6) A variety of tests conducted by independent
13 scientists have concluded that significant WTC con-
14 tamination settled in indoor environments sur-
15 rounding the disaster site. The Environmental Pro-
16 tection Agency's (EPA) cleanup programs for indoor
17 residential spaces, in 2003 and 2005, though lim-
18 ited, are an acknowledgment that indoor contamina-
19 tion continued after the WTC attacks.

20 (7) At the request of the Department of En-
21 ergy, the Davis DELTA Group at the University of
22 California conducted outdoor dust sampling in Octo-
23 ber 2001 at Varick and Houston Streets (approx-
24 imately 1.2 miles north of Ground Zero) and found
25 that the contamination from the World Trade Cen-

1 ter “outdid even the worst pollution from the Ku-
2 wait oil fields fires”. Further, the United States Ge-
3 ological Survey (USGS) reported on November 27,
4 2001, that dust samples collected from indoor sur-
5 faces registered at levels that were “as caustic as
6 liquid drain cleaners”.

7 (8) According to both the EPA’s own Inspector
8 General’s (EPA IG) report of August 21, 2003 and
9 General Accountability Offices’s (GAO) report of
10 September 2007, no comprehensive program has
11 ever been conducted in order to characterize the full
12 extent of WTC contamination, and therefore the full
13 impact of that contamination— geographic or other-
14 wise—remains unknown.

15 (9) Such reports found that there has never
16 been a comprehensive program to remediate WTC
17 toxins from indoor spaces. Thus, area residents,
18 workers and students may continued to be exposed
19 to WTC contamination in their homes, workplaces
20 and schools.

21 (10) Because of the failure to release federally
22 appropriated funds for community care, a lack of
23 sufficient outreach, the fact that many community
24 members are receiving care from physicians outside
25 the current City-funded World Trade Center Envi-

1 ronmental Health Center program and thus fall out-
2 side data collection efforts, and other factors, the
3 number of community members being treated at the
4 World Trade Center Environmental Health Center
5 underrepresents the total number in the community
6 that have been affected by exposure to Ground Zero
7 toxins.

8 (11) Research by Columbia University's Center
9 for Children's Environmental Health has shown neg-
10 ative health effects on babies born to women living
11 within 2 miles of the World Trade Center in the
12 month following 9/11.

13 (12) Federal funding allocated for the moni-
14 toring of rescue workers' health is not sufficient to
15 ensure the long-term study of health impacts of Sep-
16 tember 11.

17 (13) A significant portion of those who have de-
18 veloped health problems as result of exposures to
19 airborne toxins or other hazards resulting from the
20 September 11, 2001, attacks on the World Trade
21 Center have no health insurance, have lost their
22 health insurance as a result of the attacks, or have
23 inadequate health insurance.

24 (14) The Federal program to provide medical
25 treatments to those who responded to the September

1 11 aftermath, and who continue to experience health
2 problems as a result, was finally established more
3 than five years after the attacks, but has no certain
4 long-term funding.

5 (15) Rescue workers and volunteers seeking
6 workers' compensation have reported that their ap-
7 plications have been denied, delayed for months, or
8 redirected, instead of receiving assistance in a timely
9 and supportive manner.

10 (16) A February 2007 report released by the
11 City of New York estimated that approximately
12 410,000 people were the most heavily exposed to the
13 environmental hazards and trauma of the September
14 11 terrorist attacks. More than 30 percent of the
15 Fire Department of the City of New York first re-
16 sponders were still experiencing some respiratory
17 symptoms more than five years after the attacks and
18 according to the report, 59 percent of those seen by
19 the WTC Environmental Health Center at Bellevue
20 Hospital (which serves community members) are
21 without insurance and 65 percent have incomes less
22 than \$15,000 per year. The report also found a need
23 to continue and expand mental health services.

24 (17) Since the 5th anniversary of the attack
25 (September 11, 2006), hundreds of workers a month

1 have been signing up with the monitoring and treat-
2 ment programs.

3 (18) In April 2008, the Department of Health
4 and Human Services reported to Congress that in
5 fiscal year 2007 11,359 patients received medical
6 treatment in the existing WTC Responder Medical
7 and Treatment program for WTC-related health
8 problems, and that number of responders who need
9 treatment and the severity of health problems is ex-
10 pected to increase.

11 (19) The September 11 Victim Compensation
12 Fund of 2001 was established to provide compensa-
13 tion to individuals who were physically injured or
14 killed as a result of the terrorist-related aircraft
15 crashes of September 11, 2001.

16 (20) The deadline for filing claims for com-
17 pensation under the Victim Compensation Fund was
18 December 22, 2003.

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

24 (22) Further research is needed to evaluate
25 more comprehensively the extent of the health im-

1 pacts of September 11, including research for
2 emerging health problems such as cancer, which
3 have been predicted.

4 (23) Research is needed regarding possible
5 treatment for the illnesses and injuries of September
6 11.

7 (24) The Federal response to medical and fi-
8 nancial issues arising from the September 11 re-
9 sponse efforts needs a comprehensive, coordinated
10 long-term response in order to meet the needs of all
11 the individuals who were exposed to the toxins of
12 Ground Zero and are suffering health problems from
13 the disaster.

14 (25) The failure to extend the appointment of
15 Dr. John Howard as Director of the National Insti-
16 tute for Occupational Safety and Health in July
17 2008 is not in the interests of the administration of
18 such Institute nor the continued operation of the
19 World Trade Center Medical Monitoring and Treat-
20 ment Program which he has headed, and the Sec-
21 retary of Health and Human Services should recon-
22 sider extending such appointment.

1 **TITLE I—WORLD TRADE CENTER**
2 **HEALTH PROGRAM**

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

4 The Public Health Service Act is amended by adding
5 at the end the following new title:

6 **“TITLE XXX—WORLD TRADE**
7 **CENTER HEALTH PROGRAM**

8 **“Subtitle A—Establishment of Pro-**
9 **gram; Advisory and Steering**
10 **Committees**

11 **“SEC. 3001. ESTABLISHMENT OF WORLD TRADE CENTER**
12 **HEALTH PROGRAM WITHIN NIOSH.**

13 “(a) IN GENERAL.—There is hereby established with-
14 in the National Institute for Occupational Safety and
15 Health a program to be known as the ‘World Trade Center
16 Health Program’ (in this title referred to as the ‘WTC
17 program’) to provide—

18 “(1) medical monitoring and treatment benefits
19 to eligible emergency responders and recovery and
20 clean-up workers (including those who are Federal
21 employees) who responded to the September 11,
22 2001, terrorist attacks on the World Trade Center;
23 and

24 “(2) screening and treatment benefits to resi-
25 dents and other building occupants and area workers

1 in New York City who were directly impacted and
2 adversely affected by such attacks.

3 “(b) COMPONENTS OF PROGRAM.—The WTC pro-
4 gram includes the following components:

5 “(1) MEDICAL MONITORING FOR RESPOND-
6 ERS.—Medical monitoring under section 3011, in-
7 cluding clinical examinations and long-term health
8 monitoring and analysis for individuals who were
9 likely to have been exposed to airborne toxins that
10 were released, or to other hazards, as a result of the
11 September 11, 2001, terrorist attacks on the World
12 Trade Center.

13 “(2) SCREENING FOR COMMUNITY MEMBERS.—
14 Screening under section 3021, including an evalua-
15 tion to determine eligibility for treatment.

16 “(3) TREATMENT FOR WTC-RELATED CONDI-
17 TIONS FOR RESPONDERS AND COMMUNITY MEM-
18 BERS.—Provision under sections 3012, 3022, and
19 3023 of treatment and payment, subject to the pro-
20 visions of subsection (d), for all medically necessary
21 health and mental health care expenses (including
22 necessary prescription drugs) of individuals with a
23 WTC-related health condition.

1 “(4) OUTREACH.—Establishment under section
2 3004 of an outreach program to potentially eligible
3 individuals concerning the benefits under this title.

4 “(5) UNIFORM DATA COLLECTION.—Collection
5 under section 3005 of health and mental health data
6 on individuals receiving monitoring or treatment
7 benefits, using a uniform system of data collection.

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

12 “(c) NO COST-SHARING.—Monitoring and treatment
13 benefits and screening benefits are provided under subtitle
14 B without any deductibles, copayments, or other cost-shar-
15 ing to an eligible WTC responder or any eligible WTC
16 community member.

17 “(d) PAYOR.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graphs (2) and (3) and section 3012(c)(4), the cost
20 of monitoring and treatment benefits and screening
21 benefits provided under subtitle B shall be paid for
22 by the WTC program.

23 “(2) WORKERS’ COMPENSATION PAYMENT.—
24 Payment for treatment under subtitle B of a WTC-
25 related condition in an individual that is work-re-

1 lated shall be reduced or recouped to the extent that
2 the Secretary determines that payment has been
3 made, or can reasonably be expected to be made,
4 under a workers' compensation law or plan of the
5 United States or a State, or other work-related in-
6 jury or illness benefit plan of the employer of such
7 individual, for such treatment. The provisions of
8 clauses (iii), (iv), (v), and (vi) of paragraph (2)(B)
9 of section 1862(b) of the Social Security Act (42
10 U.S.C. 1395y(b)(2)) and paragraph (3) of such sec-
11 tion shall apply to the recoupment under this para-
12 graph of a payment to the WTC program with re-
13 spect to a workers' compensation law or plan, or
14 other 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 reimburse-
17 ment of a payment under section 1862(b)(2) of such
18 Act to the Secretary, with respect to such a law or
19 plan and an individual entitled to benefits under title
20 XVIII of such Act.

21 “(3) HEALTH INSURANCE COVERAGE.—In the
22 case of an individual who has a WTC-related condi-
23 tion that is not work-related and has health coverage
24 for such condition through any public or private
25 health plan, the provisions of section 1862(b) of the

1 Social Security Act (42 U.S.C. 1395y(b)) shall apply
2 to such a health plan and such individual in the
3 same manner as they apply to a group health plan
4 and an individual entitled to benefits under title
5 XVIII of such Act pursuant to section 226(a). Any
6 costs for items and services covered under such plan
7 that are not reimbursed by such health plan, due to
8 the application of deductibles, copayments, coinsur-
9 ance, other cost-sharing, or otherwise, are reimburs-
10 able under this title to the extent that they are cov-
11 ered under the WTC program.

12 “(4) WORK-RELATED DESCRIBED.—For the
13 purposes of this subsection, a WTC-related condition
14 shall be treated as a condition that is work-related
15 if—

16 “(A) the condition is diagnosed in an eligi-
17 ble WTC responder, or in an individual who
18 qualifies as an eligible WTC community mem-
19 ber on the basis of being a rescue, recovery, or
20 clean-up worker; or

21 “(B) with respect to the condition the indi-
22 vidual has filed and had established a workers’
23 compensation claim.

24 “(e) QUALITY ASSURANCE AND MONITORING OF
25 CLINICAL EXPENDITURES.—

1 “(1) QUALITY ASSURANCE.—The WTC Pro-
2 gram Administrator working with the Clinical Cen-
3 ters of Excellence shall develop and implement a
4 quality assurance program for the medical moni-
5 toring and treatment delivered by such Centers of
6 Excellence and any other participating health care
7 providers. Such program shall include—

8 “(A) adherence to medical monitoring and
9 treatment protocols;

10 “(B) appropriate diagnostic and treatment
11 referrals for participants;

12 “(C) prompt communication of test results
13 to participants; and

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

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

1 of such Act) and is a health plan (as defined in sec-
2 tion 1128C(e) of such Act) for purposes of applying
3 sections 1128 through 1128E of such Act.

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

8 “(g) ANNUAL PROGRAM REPORT.—

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

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

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

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

1 “(ii) of the individuals who were cer-
2 tified, on the number who received medical
3 monitoring under the program and the
4 number of such individuals who received
5 medical treatment under the program;

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

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

13 “(B) MONITORING, SCREENING, AND
14 TREATMENT COSTS.—For each clinical program
15 so described—

16 “(i) information on the costs of moni-
17 toring and screening and the costs of treat-
18 ment and on the estimated costs of such
19 monitoring, screening, and treatment in
20 the succeeding fiscal year; and

21 “(ii) an estimate of the cost of med-
22 ical treatment for WTC-related conditions
23 that have been paid for or reimbursed by
24 workers’ compensation, by public or private

1 health plans, or by the City of New York
2 under section 3012(e)(4).

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

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

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

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

17 “(E) SCIENTIFIC REPORTS.—A summary
18 of the findings of any new scientific reports or
19 studies on the health effects associated with
20 WTC center exposures, including the findings
21 of research conducted under section 3041(a).

22 “(F) ADVISORY COMMITTEE REC-
23 OMMENDATIONS.—A list of recommendations by
24 the WTC Scientific/Technical Advisory Com-
25 mittee on additional WTC program eligibility

1 criteria and on additional WTC-related health
2 conditions and the action of the WTC Program
3 Administrator concerning each such rec-
4 ommendation.

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

9 “(A) FDNY RESPONDERS.—The benefits
10 provided for eligible WTC responders described
11 in section 3006(b)(1)(A).

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

15 “(C) ELIGIBLE WTC COMMUNITY MEM-
16 BERS.—The benefits provided for eligible WTC
17 community members in section 3006(b)(1)(C).

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

22 “(1) when the number of certifications for eligi-
23 ble WTC responders subject to the limit established
24 under section 3011(a)(5) has reached 80 percent of
25 such limit; and

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) 2 environmental medicine or environmental
8 health specialists;

9 “(3) 2 representatives of eligible WTC respond-
10 ers;

11 “(4) 2 representatives of WTC community
12 members;

13 “(5) an industrial hygienist;

14 “(6) a toxicologist;

15 “(7) an epidemiologist; and

16 “(8) a mental health professional.

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

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

24 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the
25 purpose of carrying out this section, there are authorized

1 to be appropriated such sums as may be necessary, not
2 to exceed \$100,000, for each fiscal year beginning with
3 fiscal year 2009.

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

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

11 **“SEC. 3003. WTC HEALTH PROGRAM STEERING COMMIT-**
12 **TEES.**

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

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

23 “(2) WTC COMMUNITY PROGRAM STEERING
24 COMMITTEE.—One steering committee, to be known
25 as the WTC Community Program Steering Com-

1 mittee, for the purpose of facilitating the coordina-
2 tion of screening and treatment programs for eligible
3 WTC community members under part 2 of subtitle
4 B.

5 “(b) MEMBERSHIP.—

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

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

16 “(B) a representative of the Department of
17 Health of the City of New York;

18 “(C) a representative of another agency of
19 the City of New York, selected by the Mayor of
20 New York City, which had a large number of
21 non-uniformed City workers who responded to
22 the WTC disaster; and

23 “(D) three representatives of eligible WTC
24 responders;

1 in order that eligible WTC responders constitute half
2 the members of the Steering Committee.

3 “(2) INITIAL MEMBERSHIP OF WTC COMMUNITY
4 PROGRAM STEERING COMMITTEE.—

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

12 “(i) 11 representatives of the affected
13 populations of residents, students, area
14 workers, and other community members.

15 “(ii) The Medical Director of the
16 WTC Environmental Health Center.

17 “(iii) The Executive Director of the
18 WTC Environmental Health Center.

19 “(iv) Three physicians, one each rep-
20 resenting the three WTC Environmental
21 Health Center treatment sites of Bellevue
22 Hospital Center, Gouverneur Healthcare
23 Services, and Elmhurst Hospital Center.

24 “(v) Five specialists with WTC re-
25 lated expertise or experience in treating

1 non-responder WTC diseases, such as a pe-
2 diatrician, an epidemiologist, a psychiatrist
3 or psychologist, an environmental/occupa-
4 tional specialists or a social worker from a
5 WTC Environmental Health Center treat-
6 ment site, or other relevant specialists.

7 “(vi) A representative of the Depart-
8 ment of Health and Mental Hygiene of the
9 City of New York.

10 “(B) APPOINTMENTS.—

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

18 “(ii) NYC HEALTH AND HOSPITALS
19 CORPORATION.—The New York City
20 Health and Hospitals Corporation shall
21 nominate members for positions described
22 in clauses (iv) and (v) of subparagraph
23 (A).

24 “(iii) TIMING.—Nominations under
25 clauses (i) and (ii) shall be recommended

1 to the WTC Program Administrator not
2 later than 60 days after the date of the en-
3 actment of this title.

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

9 “(v) GENERAL REPRESENTATIVES.—
10 Of the members appointed under subpara-
11 graph (A)(i)—

12 “(I) the representation shall re-
13 flect the broad and diverse WTC-af-
14 fected populations and constituencies
15 and the diversity of impacted neigh-
16 borhoods, including residents, hard-to-
17 reach populations, students, area
18 workers, school parents, community-
19 based organizations, Community
20 Boards, WTC Environmental Health
21 Center patients, labor unions, and
22 labor advocacy organizations; and

23 “(II) no one individual organiza-
24 tion can have more than one rep-
25 resentative.

1 “(3) ADDITIONAL APPOINTMENTS.—Each
2 Steering Committee may appoint, if approved by a
3 majority of voting members of the Committee, addi-
4 tional members to the Committee.

5 “(4) VACANCIES.—A vacancy in a Steering
6 Committee shall be filled by the Steering Committee,
7 subject to the approval of the WTC Program Ad-
8 ministrators, so long as—

9 “(A) in the case of the WTC Responders
10 Steering Committee, the composition of the
11 Committee includes representatives of eligible
12 WTC responders and representatives of each
13 Clinical Center of Excellence and each Coordinating
14 Center of Excellence that serves eligible
15 WTC responders and such composition has eli-
16 gible WTC responders constituting half of the
17 membership of the Steering Committee; or

18 “(B) in the case of the WTC Community
19 Program Steering Committee, the composition
20 of the Committee includes representatives of eli-
21 gible WTC community members and represent-
22 atives of each Clinical Center of Excellence and
23 each Coordinating Center of Excellence that
24 serves eligible WTC community members and

1 the nominating process is consistent with para-
2 graph (2)(B).

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

7 “(A) COMMUNITY/LABOR CO-CHAIR.—A
8 Community/Labor Co-Chair who shall be chosen
9 by the community and labor-based members of
10 the Steering Committee.

11 “(B) ENVIRONMENTAL HEALTH CLINIC
12 CO-CHAIR.—A WTC Environmental Health
13 Clinic Co-Chair who shall be chosen by the
14 WTC Environmental Health Center members
15 on the Steering Committee.

16 “(c) RELATION TO FACCA.—Each Steering Com-
17 mittee shall not be subject to the Federal Advisory Com-
18 mittee Act.

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

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

5 **“SEC. 3004. COMMUNITY EDUCATION AND OUTREACH.**

6 “(a) IN GENERAL.—The WTC Program Adminis-
7 trator shall institute a program that provides education
8 and outreach on the existence and availability of services
9 under the WTC program. The outreach and education
10 program—

11 “(1) shall include—

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

14 “(B) meetings with potentially eligible pop-
15 ulations;

16 “(C) development and dissemination of
17 outreach materials informing people about the
18 program; and

19 “(D) the establishment of phone informa-
20 tion services; and

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

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

23 “(B) to include materials for culturally and
24 linguistically diverse populations.

1 “(b) PARTNERSHIPS.—To the greatest extent pos-
2 sible, in carrying out this section, the WTC Program Ad-
3 ministrator shall enter into partnerships with local govern-
4 ments and organizations with experience performing out-
5 reach to the affected populations, including community
6 and labor-based organizations.

7 **“SEC. 3005. UNIFORM DATA COLLECTION.**

8 “(a) IN GENERAL.—The WTC Program Adminis-
9 trator shall provide for the uniform collection of data (and
10 analysis of data and regular reports to the Administrator)
11 on the utilization of monitoring and treatment benefits
12 provided to eligible WTC responders and eligible WTC
13 community members, the prevalence of WTC-related
14 health conditions, and the identification of new WTC-re-
15 lated medical conditions. Such data shall be collected for
16 all individuals provided monitoring or treatment benefits
17 under subtitle B and regardless of their place of residence
18 or Clinical Center of Excellence through which the benefits
19 are provided.

20 “(b) COORDINATING THROUGH CENTERS OF EXCEL-
21 LENCE.—Each Clinical Center of Excellence shall collect
22 data described in subsection (a) and report such data to
23 the corresponding Coordinating Center of Excellence for
24 analysis by such Coordinating Center of Excellence.

1 “(c) PRIVACY.—The data collection and analysis
2 under this section shall be conducted in a manner that
3 protects the confidentiality of individually identifiable
4 health information consistent with applicable legal require-
5 ments.

6 **“SEC. 3006. CENTERS OF EXCELLENCE.**

7 “(a) IN GENERAL.—

8 “(1) CONTRACTS WITH CLINICAL CENTERS OF
9 EXCELLENCE.—The WTC Program Administrator
10 shall enter into contracts with Clinical Centers of
11 Excellence specified in subsection (b)(1)—

12 “(A) for the provision of monitoring and
13 treatment benefits and screening benefits under
14 subtitle B;

15 “(B) for the provision of outreach activities
16 to individuals eligible for such monitoring and
17 treatment benefits, for screening benefits, and
18 for follow-up to individuals who are enrolled in
19 the monitoring program;

20 “(C) for the provision of counseling for
21 benefits under subtitle B, with respect to WTC-
22 related health conditions, for individuals eligible
23 for such benefits; and

24 “(D) for the provision of counseling for
25 benefits for WTC-related health conditions that

1 may be available under Workers’ Compensation
2 or other benefit programs for work-related inju-
3 ries or illnesses, health insurance, disability in-
4 surance, or other insurance plans or through
5 public or private social service agencies and as-
6 sisting eligible individuals in applying for such
7 benefits;

8 “(E) for the provision of translational and
9 interpretive services as for program participants
10 who are not English language proficient; and

11 “(F) for the collection and reporting of
12 data in accordance with section 3005.

13 “(2) CONTRACTS WITH COORDINATING CEN-
14 TERS OF EXCELLENCE.—The WTC Program Ad-
15 ministrator shall enter into contracts with Coordi-
16 nating Centers of Excellence specified in subsection
17 (b)(2)—

18 “(A) for receiving, analyzing, and report-
19 ing to the WTC Program Administrator on
20 data, in accordance with section 3005, that has
21 been collected and reported to such Coordi-
22 nating Centers by the corresponding Clinical
23 Centers of Excellence under subsection (d)(3);

1 “(B) for the development of medical moni-
2 toring, screening, and treatment protocols, with
3 respect to WTC-related health conditions;

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

7 “(D) for establishing criteria for the
8 credentialing of medical providers participating
9 in the nationwide network under section 3031;

10 “(E) for coordinating and administrating
11 the activities of the WTC Health Program
12 Steering Committees established under section
13 3003(a); and

14 “(F) for meeting periodically with the cor-
15 responding Clinical Centers of Excellence to ob-
16 tain input on the analysis and reporting of data
17 collected under subparagraph (A) and on the
18 development of medical monitoring, screening,
19 and treatment protocols under subparagraph
20 (B).

21 The medical providers under subparagraph (D) shall
22 be selected by the WTC Program Administrator on
23 the basis of their experience treating or diagnosing
24 the medical conditions included in the list of identi-
25 fied WTC-related conditions for responders and of

1 identified WTC-related conditions for community
2 members.

3 “(b) CENTERS OF EXCELLENCE DEFINED.—

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

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

12 “(i) is an active employee of such De-
13 partment—

14 “(I) with respect to monitoring,
15 such Fire Department; and

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

23 “(ii) is not an active employee of such
24 Department, such Fire Department (or
25 such entity as has entered into a contract

1 with the Fire Department for monitoring
2 or treatment of such responders) or any
3 other or any other Clinical Center of Ex-
4 cellence described in subparagraph (B),
5 (C), or (D).

6 “(B) OTHER ELIGIBLE WTC RESPONDERS
7 IN NEW YORK.—With respect to other eligible
8 WTC responders who reside in the New York
9 Metropolitan area, the Mt. Sinai coordinated
10 consortium, Queens College, State University of
11 New York at Stony Brook, University of Medi-
12 cine and Dentistry of New Jersey, and Bellevue
13 Hospital.

14 “(C) WTC COMMUNITY MEMBERS IN NEW
15 YORK.—With respect to eligible WTC commu-
16 nity members who reside in the New York Met-
17 ropolitan area, the World Trade Center Envi-
18 ronmental Health Center at Bellevue Hospital
19 and such hospitals or other facilities, including
20 but not limited to those within the New York
21 City Health and Hospitals Corporation, as are
22 identified by the WTC Program Administrator.

23 “(D) ALL ELIGIBLE WTC RESPONDERS
24 AND ELIGIBLE WTC COMMUNITY MEMBERS.—
25 With respect to all eligible WTC responders and

1 eligible WTC community members, such other
2 hospitals or other facilities as are identified by
3 the WTC Program Administrator.

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

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

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

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

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

1 “(3) CORRESPONDING CENTERS.—In this title,
2 a Clinical Center of Excellence and a Coordinating
3 Center of Excellence shall be treated as ‘cor-
4 responding’ to the extent that such Clinical Center
5 and Coordinating Center serve the same population
6 group.

7 “(c) REIMBURSEMENT FOR NON-TREATMENT, NON-
8 MONITORING PROGRAM COSTS.—A Clinical or Coordi-
9 nating Center of Excellence with a contract under this sec-
10 tion shall be reimbursed for the costs of such Center in
11 carrying out the activities described in subsection (a),
12 other than those described in subsection (a)(1)(A), subject
13 to the provisions of section 3001(d), as follows:

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

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

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

1 gible WTC responder in the monitoring
2 program; 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 “(B) CLINICAL CENTERS SERVING OTHER
11 ELIGIBLE WTC RESPONDERS IN NEW YORK.—A
12 Clinical Center of Excellence for other WTC re-
13 sponders in New York specified in subsection
14 (b)(1)(B) shall be reimbursed the amounts
15 specified in subparagraph (A).

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

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

1 tified eligible WTC community member in
2 a medical treatment program enrolled at a
3 hospital-based facility, \$300; and

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

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

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

23 “(2) COORDINATING CENTERS OF EXCEL-
24 LENCE.—A Coordinating Centers of Excellence spec-
25 ified in section (a)(2) shall be reimbursed for the

1 provision of services set forth in this section at such
2 levels as are established by the WTC Program Ad-
3 ministrator.

4 “(3) REVIEW OF RATES.—

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

16 “(B) SUBSEQUENT REVIEWS.—After the
17 sixth contract year, the WTC Program Admin-
18 istrator shall conduct periodic reviews to deter-
19 mine whether the reimbursement rates in effect
20 under this subsection provide fair and appro-
21 priate reimbursement for such program serv-
22 ices. Based upon such a review, the Adminis-
23 trator may by rule modify such rates, taking
24 into account a reasonable and fair rate for the
25 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 3005;

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 **“SEC. 3007. ENTITLEMENT AUTHORITIES.**

19 “Subject to section 3012(c)(5), subtitle B constitutes
20 budget authority in advance of appropriations Acts and
21 represents the obligation of the Federal Government to
22 provide for the payment for monitoring, screening, and
23 treatment in accordance with such subtitle and section
24 3006(c) constitutes such budget authority and represents

1 the obligation of the Federal Government to provide for
2 the payment described in such section.

3 **“SEC. 3008. DEFINITIONS.**

4 “In this title:

5 “(1) The term ‘aggravating’ means, with re-
6 spect to a health condition, a health condition that
7 existed on September 11, 2001, and that, as a result
8 of exposure to airborne toxins, any other hazard, or
9 any other adverse condition resulting from the Sep-
10 tember 11, 2001, terrorist attacks on the World
11 Trade Center requires medical treatment that is (or
12 will be) in addition to, more frequent than, or of
13 longer duration than the medical treatment that
14 would have been required for such condition in the
15 absence of such exposure.

16 “(2) The terms ‘certified eligible WTC re-
17 sponder’ and ‘certified eligible WTC community
18 member’ mean an individual who has been certified
19 as an eligible WTC responder under section
20 3011(a)(4) or an eligible WTC community member
21 under section 3021(a)(4), respectively.

22 “(3) The terms ‘Clinical Center of Excellence’
23 and ‘Coordinating Center of Excellence’ have the
24 meanings given such terms in section 3006(b).

1 “(4) The term ‘current consortium arrange-
2 ments’ means the arrangements as in effect on the
3 date of the enactment of this title between the Na-
4 tional Institute for Occupational Safety and Health
5 and the Mt. Sinai-coordinated consortium and the
6 Fire Department of the City of New York.

7 “(5) The terms ‘eligible WTC responder’ and
8 ‘eligible WTC community member’ are defined in
9 sections 3011(a) and 3021(a), respectively.

10 “(6) The term ‘list of identified WTC-related
11 health conditions’ means—

12 “(A) for eligible WTC responders, the
13 identified WTC-related health condition for eli-
14 gible WTC responders under section 3012(a)(3)
15 or 3012(a)(4); or

16 “(B) for eligible WTC community mem-
17 bers, the identified WTC-related health condi-
18 tion for WTC community members under sec-
19 tion 3022(b)(1) or 3022(b)(2).

20 “(7) The term ‘Mt.-Sinai-coordinated consor-
21 tium’ means the consortium coordinated by Mt.
22 Sinai hospital in New York City that coordinates the
23 monitoring and treatment under the current consor-
24 tium arrangements for eligible WTC responders
25 other than with respect to those covered under the

1 arrangement with the Fire Department of the City
2 of New York.

3 “(8) The term ‘New York City disaster area’
4 means the area within New York City that is—

5 “(A) the area of Manhattan that is south
6 of Houston Street; and

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

10 “(9) The term ‘New York metropolitan area’
11 means an area, specified by the WTC Program Ad-
12 ministrator, within which eligible WTC responders
13 and eligible WTC community members who reside in
14 such area are reasonably able to access monitoring
15 and treatment benefits and screening benefits under
16 this title through a Clinical Centers of Excellence
17 described in subparagraphs (A), (B), or (C) of sec-
18 tion 3006(b)(1).

19 “(10) Any reference to ‘September 11, 2001’
20 shall be deemed a reference to the period on such
21 date subsequent to the terrorist attacks on the
22 World Trade Center on such date.

23 “(11) The term ‘September 11, 2001, terrorist
24 attacks on the World Trade Center’ means the ter-
25 rorist attacks that occurred on September 11, 2001,

1 in New York City and includes the aftermath of
2 such attacks.

3 “(12) The term ‘WTC Health Program Steer-
4 ing Committee’ means such a Steering Committee
5 established under section 3003.

6 “(13) The term ‘WTC Program Administrator’
7 means the individual responsible under section
8 3001(f) for the administration of the WTC program.

9 “(14) The term ‘WTC-related health condition’
10 is defined in section 3012(a).

11 “(15) The term ‘WTC Scientific/Technical Ad-
12 visory Committee’ means such Committee estab-
13 lished under section 3002.

14 **“Subtitle B—Program of Moni-
15 toring, Screening, and Treat-
16 ment**

17 **“PART 1—FOR WTC RESPONDERS**

18 **“SEC. 3011. IDENTIFICATION OF ELIGIBLE WTC RESPOND-
19 ERS AND PROVISION OF WTC-RELATED MONI-
20 TORING SERVICES.**

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

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

1 “(A) CURRENTLY IDENTIFIED RE-
2 SPONDER.—An individual who has been identi-
3 fied as eligible for medical monitoring under the
4 current consortium arrangements (as defined in
5 section 3008(4)).

6 “(B) RESPONDER WHO MEETS CURRENT
7 ELIGIBILITY CRITERIA.—An individual who
8 meets the current eligibility criteria described in
9 paragraph (2).

10 “(C) RESPONDER WHO MEETS MODIFIED
11 ELIGIBILITY CRITERIA.—An individual who—

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

21 “(ii) meets such eligibility criteria re-
22 lating to exposure to airborne toxins, other
23 hazards, or adverse conditions resulting
24 from the September 11, 2001, terrorist at-
25 tacks on the World Trade Center as the

1 WTC Program Administrator, after con-
2 sultation with the WTC Responders Steer-
3 ing Committee and the WTC Scientific/
4 Technical Advisory Committee, determines
5 appropriate.

6 The WTC Program Administrator shall not
7 modify such eligibility criteria on or after the
8 date that the number of certifications for eligi-
9 ble responders has reached 80 percent of the
10 limit described in paragraph (5) or on or after
11 the date that the number of certifications for el-
12 igible community members has reached 80 per-
13 cent of the limit described in section
14 3021(a)(5).

15 “(2) CURRENT ELIGIBILITY CRITERIA.—The
16 eligibility criteria described in this paragraph for an
17 individual is that the individual is described in either
18 of the following categories:

19 “(A) FIRE FIGHTERS AND RELATED PER-
20 SONNEL.—The individual—

21 “(i) was a member of the Fire De-
22 partment of the City of New York (wheth-
23 er fire or emergency personnel, active or
24 retired) who participated at least one day
25 in the rescue and recovery effort at any of

1 the former World Trade sites (including
2 Ground Zero, Staten Island land fill, and
3 the NYC Chief Medical Examiner’s office)
4 for any time during the period beginning
5 on September 11, 2001, and ending on
6 July 31, 2002; or

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

14 “(II) received any treatment for a
15 WTC-related mental health condition de-
16 scribed in section 3012(a)(1)(B) on or be-
17 fore September 1, 2008.

18 “(B) LAW ENFORCEMENT OFFICERS AND
19 WTC RESCUE, RECOVERY, AND CLEAN-UP
20 WORKERS.—The individual—

21 “(i) worked or volunteered on-site in
22 rescue, recovery, debris-cleanup or related
23 support services in lower Manhattan (south
24 of Canal St.), the Staten Island Landfill,
25 or the barge loading piers, for at least 4

1 hours during the period beginning on Sep-
2 tember 11, 2001, and ending on Sep-
3 tember 14, 2001, for at least 24 hours
4 during the period beginning on September
5 11, 2001, and ending on September 30,
6 2001, or for at least 80 hours during the
7 period beginning on September 11, 2001,
8 and ending on July 31, 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 services in lower Man-
17 hattan (south of Canal St.), including
18 Ground Zero, the Staten Island Landfill or
19 the barge loading piers, for at least 4
20 hours during the period beginning Sep-
21 tember 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 in 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;

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
21 World Trade Center attacks, or other
22 morgue worker who performed similar
23 post-September 11 functions for such Of-
24 fice staff, during the period beginning on

1 September 11, 2001 and ending on July
2 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, and maintaining
12 vehicles 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 3021(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 3021(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 for such period.

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

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

11 “(ii) CBO WTC SPENDING ESTI-
12 MATE.—The term ‘CBO WTC spending es-
13 timate’ means, with respect to—

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

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

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

21 “(iii) WTC EXPENDITURE-TO-CBO-ES-
22 TIMATE PERCENTAGE.—The term ‘WTC
23 expenditure-to-estimate percentage’ means,
24 with respect to a period of fiscal years, the
25 ratio (expressed as a percentage) of—

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

3 “(II) the CBO WTC spending es-
4 timate for such period.

5 “(b) MONITORING BENEFITS.—

6 “(1) IN GENERAL.—In the case of an eligible
7 WTC responder under section 3011(a)(4) (other
8 than one described in subsection (a)(2)(A)(ii)), the
9 WTC program shall provide for monitoring benefits
10 that include medical monitoring consistent with pro-
11 tocols approved by the WTC Program Administrator
12 and including clinical examinations and long-term
13 health monitoring and analysis. In the case of an eli-
14 gible WTC responder who is an active member of
15 the Fire Department of the City of New York, the
16 responder shall receive such benefits as part of the
17 individual’s periodic company medical exams.

18 “(2) PROVISION OF MONITORING BENEFITS.—
19 The monitoring benefits under paragraph (1) shall
20 be provided through the Clinical Center of Excel-
21 lence for the type of individual involved or, in the
22 case of an individual residing outside the New York
23 metropolitan area, under an arrangement under sec-
24 tion 3031.

1 **“SEC. 3012. TREATMENT OF CERTIFIED ELIGIBLE WTC RE-**
2 **SPONDERS FOR WTC-RELATED HEALTH CON-**
3 **DITIONS.**

4 “(a) WTC-RELATED HEALTH CONDITION DE-
5 FINED.—

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

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

21 “(B) a mental health condition for which
22 such attacks, based on an examination by a
23 medical professional with experience in treating
24 or diagnosing the medical conditions included in
25 the applicable list of identified WTC-related
26 conditions, is substantially likely be a signifi-

1 cant factor in aggravating, contributing to, or
2 causing the condition, as determined under
3 paragraph (2).

4 In the case of an eligible WTC responder described
5 in section 3011(a)(2)(A)(ii), such term only includes
6 the mental health condition described in subpara-
7 graph (B).

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

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

19 “(i) evaluated and characterized
20 through the use of a standardized, popu-
21 lation appropriate questionnaire approved
22 by the Director of the National Institute
23 for Occupational Safety and Health; and

24 “(ii) assessed and documented by a
25 medical professional with experience in

1 treating or diagnosing medical conditions
2 included on the list of identified WTC-re-
3 lated conditions.

4 “(B) The type of symptoms and temporal
5 sequence of symptoms. Such symptoms shall
6 be—

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

13 “(ii) diagnosed and documented by a
14 medical professional described in subpara-
15 graph (A)(ii).

16 “(3) LIST OF IDENTIFIED WTC-RELATED
17 HEALTH CONDITIONS FOR CERTIFIED ELIGIBLE WTC
18 RESPONDERS.—For purposes of this title, the term
19 ‘identified WTC-related health condition for eligible
20 WTC responders’ means any of the following health
21 conditions:

22 “(A) AERODIGESTIVE DISORDERS.—

23 “(i) Interstitial lung diseases.

24 “(ii) Chronic respiratory disorder-
25 fumes/vapors.

1 “(iii) Asthma.

2 “(iv) Reactive airways dysfunction
3 syndrome (RADS).

4 “(v) WTC-exacerbated chronic ob-
5 structive pulmonary disease (COPD).

6 “(vi) Chronic cough syndrome.

7 “(vii) Upper airway hyperreactivity.

8 “(viii) Chronic rhinosinusitis.

9 “(ix) Chronic nasopharyngitis.

10 “(x) Chronic laryngitis.

11 “(xi) Gastro-esophageal reflux dis-
12 order (GERD).

13 “(xii) Sleep apnea exacerbated by or
14 related to a condition described in a pre-
15 vious clause.

16 “(B) MENTAL HEALTH CONDITIONS.—

17 “(i) Post traumatic stress disorder
18 (PTSD).

19 “(ii) Major depressive disorder.

20 “(iii) Panic disorder.

21 “(iv) Generalized anxiety disorder.

22 “(v) Anxiety disorder (not otherwise
23 specified).

24 “(vi) Depression (not otherwise speci-
25 fied).

1 “(vii) Acute stress disorder.

2 “(viii) Dysthymic disorder.

3 “(ix) Adjustment disorder.

4 “(x) Substance abuse.

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

11 “(C) MUSCULOSKELETAL DISORDERS.—

12 “(i) Low back pain.

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

14 “(iii) Other musculoskeletal disorders.

15 “(4) APPLICATION FOR RECOMMENDATION TO
16 CONGRESS OF ADDITIONAL IDENTIFIED WTC-RE-
17 LATED HEALTH CONDITIONS FOR ELIGIBLE WTC RE-
18 SPONDERS.—

19 “(A) APPLICATION.—Any individual or or-
20 ganization can apply to the WTC Program Ad-
21 ministrator for an illness or health condition
22 not described in paragraph (3) to be added to
23 the list of identified WTC-related conditions for
24 eligible WTC responders.

1 “(B) REVIEW.—The WTC Program Ad-
2 ministrators shall establish a public process for
3 receiving public input and comments on any ap-
4 plication under subparagraph (A).

5 “(C) CONSIDERATIONS.—In making deter-
6 minations on such applications, the WTC Pro-
7 gram Administrator shall take into account the
8 findings and recommendations of Clinical Cen-
9 ters of Excellence published in peer reviewed
10 journals in the determination of whether an ad-
11 ditional illness or health condition, such as can-
12 cer, should be added to the list of identified
13 WTC-related health conditions for eligible WTC
14 responders.

15 “(D) CONSULTATION.—The WTC Pro-
16 gram Administrator shall consult with the WTC
17 Responders Steering Committee and the WTC
18 Scientific/Technical Advisory Committee in
19 making a determination on whether an addi-
20 tional health condition should be added to the
21 list of identified WTC-related conditions for eli-
22 gible WTC responders.

23 “(E) RECOMMENDATION TO CONGRESS.—
24 The WTC Program Administrator shall rec-
25 ommend to Congress the addition of an illness

1 or health condition to the list of identified
2 WTC-related health conditions for eligible WTC
3 responders if, based on a review of the evidence
4 and consultations conducted under subpara-
5 graphs (B), (C), and (D), the Administrator de-
6 termines that exposure to airborne toxins, other
7 hazards, or other adverse conditions resulting
8 from the September 11, 2001, terrorist attacks
9 on the World Trade Center is substantially like-
10 ly to be a significant factor in aggravating, con-
11 tributing to, or causing the illness or health
12 condition.

13 “(b) COVERAGE OF TREATMENT FOR WTC-RELATED
14 HEALTH CONDITIONS.—

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

18 “(A) IN GENERAL.—If a physician at a
19 Clinical Center of Excellence that is providing
20 monitoring benefits under section 3011 for a
21 certified eligible WTC responder determines
22 that the responder has an identified WTC-re-
23 lated health condition, and the physician makes
24 a clinical determination that exposure to air-
25 borne toxins, other hazards, or adverse condi-

1 tions resulting from the 9/11 terrorist attacks is
2 substantially likely to be a significant factor in
3 aggravating, contributing to, or causing the
4 condition—

5 “(i) the physician shall promptly
6 transmit such determination to the WTC
7 Program Administrator and provide the
8 Administrator with the medical facts sup-
9 porting such determination; and

10 “(ii) on and after the date of such
11 transmittal and subject to subparagraph
12 (B), the WTC program shall provide for
13 payment under subsection (c) for medically
14 necessary treatment for such condition.

15 “(B) REVIEW; CERTIFICATION; AP-
16 PEALS.—

17 “(i) REVIEW.—A Federal employee
18 designated by the WTC Program Adminis-
19 trator shall review determinations made
20 under subparagraph (A) of a WTC-related
21 health condition.

22 “(ii) CERTIFICATION.—The Adminis-
23 trator shall provide a certification of such
24 condition based upon reviews conducted
25 under clause (i). Such a certification shall

1 be provided unless the Administrator de-
2 termines that the responder's condition is
3 not an identified WTC-related health con-
4 dition or that exposure to airborne toxins,
5 other hazards, or adverse conditions result-
6 ing from the 9/11 terrorist attacks is not
7 substantially likely to be a significant fac-
8 tor in significantly aggravating, contrib-
9 uting to, or causing the condition.

10 “(iii) APPEAL PROCESS.—The Admin-
11 istrator shall provide a process for the ap-
12 peal of determinations under clause (ii) be-
13 fore an administrative law judge.

14 “(2) DETERMINATION BASED ON OTHER WTC-
15 RELATED HEALTH CONDITION.—

16 “(A) IN GENERAL.—If a physician at a
17 Clinical Center of Excellence determines pursu-
18 ant to subsection (a) that the certified eligible
19 WTC responder has a WTC-related health con-
20 dition that is not an identified WTC-related
21 health condition for eligible WTC responders—

22 “(i) the physician shall promptly
23 transmit such determination to the WTC
24 Program Administrator and provide the

1 Administrator with the facts supporting
2 such determination; and

3 “(ii) on and after the date of such
4 transmittal and pending a determination
5 by the Administrator under subparagraph
6 (B), and subject to paragraph (6), the
7 WTC program shall provide for payment
8 under subsection (c) for medically nec-
9 essary treatment for such condition.

10 “(B) REVIEW; CERTIFICATION.—

11 “(i) USE OF PHYSICIAN PANEL.—The
12 WTC Program Administrator shall provide
13 for the review of each determination made
14 under subparagraph (A)(i) of a WTC-re-
15 lated health condition to be made by a
16 physician panel with appropriate expertise
17 appointed by the WTC Program Adminis-
18 trator. Such a panel shall make rec-
19 ommendations to the Administrator on the
20 evidence supporting such determination.

21 “(ii) REVIEW OF RECOMMENDATIONS
22 OF PANEL; CERTIFICATION.—The Adminis-
23 trator, based on such recommendations
24 shall determine whether or not the condi-
25 tion is a WTC-related health condition

1 and, if it is, provide for a certification
2 under paragraph (1)(B)(ii) of coverage of
3 such condition. The Administrator shall
4 provide a process for the appeal of deter-
5 minations that the responder’s condition is
6 not a WTC-related health condition before
7 an administrative law judge.

8 “(3) REQUIREMENT OF MEDICAL NECESSITY.—

9 “(A) IN GENERAL.—In providing treat-
10 ment for a WTC-health condition, a physician
11 shall provide treatment that is medically nec-
12 essary and in accordance with medical protocols
13 established under subsection (d).

14 “(B) MEDICALLY NECESSARY STAND-
15 ARD.—For the purpose of this title, health care
16 services shall be treated as medically necessary
17 for an individual if a physician, exercising pru-
18 dent clinical judgment, would consider the serv-
19 ices to be medically necessary for the individual
20 for the purpose of evaluating, diagnosing, or
21 treating an illness, injury, disease or its symp-
22 toms, and that are—

23 “(i) in accordance with the generally
24 accepted standards of medical practice;

1 “(ii) clinically appropriate, in terms of
2 type, frequency, extent, site, and duration,
3 and considered effective for the individual’s
4 illness, injury, or disease; and

5 “(iii) not primarily for the conven-
6 ience of the patient or physician, or an-
7 other physician, and not more costly than
8 an alternative service or sequence of serv-
9 ices at least as likely to produce equivalent
10 therapeutic or diagnostic results as to the
11 diagnosis or treatment of the individual’s
12 illness, injury, or disease.

13 “(C) DETERMINATION OF MEDICAL NE-
14 CESSITY.—

15 “(i) REVIEW OF MEDICAL NECES-
16 SITY.—As part of the reimbursement pay-
17 ment process under subsection (c), the
18 WTC Program Administrator shall review
19 claims for reimbursement for the provision
20 of medical treatment to determine if such
21 treatment is medically necessary.

22 “(ii) WITHHOLDING OF PAYMENT FOR
23 MEDICALLY UNNECESSARY TREATMENT.—
24 The Administrator may withhold such pay-

1 ment for treatment that the Administrator
2 determines is not medically necessary.

3 “(iii) REVIEW OF DETERMINATIONS
4 OF MEDICAL NECESSITY.—The Adminis-
5 trator shall provide a process for providers
6 to appeal a determination under clause (ii)
7 that medical treatment is not medically
8 necessary. Such appeals shall be reviewed
9 through the use of a physician panel with
10 appropriate expertise.

11 “(4) SCOPE OF TREATMENT COVERED.—

12 “(A) IN GENERAL.—The scope of treat-
13 ment covered under such paragraphs includes
14 services of physicians and other health care pro-
15 viders, diagnostic and laboratory tests, prescrip-
16 tion drugs, inpatient and outpatient hospital
17 services, and other medically necessary treat-
18 ment.

19 “(B) PHARMACEUTICAL COVERAGE.—With
20 respect to ensuring coverage of medically nec-
21 essary outpatient prescription drugs, such drugs
22 shall be provided, under arrangements made by
23 the WTC Program Administrator, directly
24 through participating Clinical Centers of Excel-
25 lence or through one or more outside vendors.

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

14 “(6) PRIOR APPROVAL PROCESS FOR NON-CER-
15 TIFIED NON-EMERGENCY INPATIENT HOSPITAL
16 SERVICES.—Non-emergency inpatient hospital serv-
17 ices for a WTC-related health condition identified by
18 an examining physician under paragraph (b)(1) that
19 is not certified under paragraph (1)(B)(ii) is not
20 covered unless the services have been determined to
21 be medically necessary and approved through a proc-
22 ess established by the WTC Program Administrator.
23 Such process shall provide for a decision on a re-
24 quest for such services within 15 days of the date
25 of receipt of the request. The WTC Administrator

1 shall provide a process for the appeal of a decision
2 that the services are not medically necessary.

3 “(c) PAYMENT FOR MEDICAL MONITORING, SCREEN-
4 ING, AND TREATMENT OF WTC-RELATED HEALTH CON-
5 DITIONS.—

6 “(1) MEDICAL TREATMENT.—

7 “(A) USE OF FECA PAYMENT RATES.—

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

16 “(B) PHARMACEUTICALS.—

17 “(i) IN GENERAL.—The WTC Pro-
18 gram Administrator shall establish a pro-
19 gram for paying for the medically nec-
20 essary outpatient prescription pharma-
21 ceuticals prescribed under this title for
22 WTC-related conditions through one or
23 more contracts with outside vendors.

24 “(ii) COMPETITIVE BIDDING.—Under
25 such program the Administrator shall—

1 “(I) select one or more appro-
2 priate vendors through a Federal com-
3 petitive bid process; and

4 “(II) select the lowest bidder (or
5 bidders) meeting the requirements for
6 providing pharmaceutical benefits for
7 participants in the WTC program.

8 “(iii) TREATMENT OF FDNY PARTICI-
9 PANTS.—Under such program the Admin-
10 istrator may enter select a separate vendor
11 to provide pharmaceutical benefits to cer-
12 tified eligible WTC responders for whom
13 the Clinical Center of Excellence is de-
14 scribed in section 3006(b)(1)(A) if such an
15 arrangement is deemed necessary and ben-
16 eficial to the program by the WTC Pro-
17 gram Administrator.

18 “(C) OTHER TREATMENT.—For treatment
19 not covered under a preceding subparagraph,
20 the WTC Program Administrator shall des-
21 ignate a reimbursement rate for each such serv-
22 ice.

23 “(2) MEDICAL MONITORING AND SCREENING.—
24 The WTC Program Administrator shall reimburse
25 the costs of medical monitoring and the costs of

1 screening provided under this title at a rate set by
2 the Administrator.

3 “(3) ADMINISTRATIVE ARRANGEMENT AUTHOR-
4 ITY.—The WTC Program Administrator may enter
5 into arrangements with other government agencies,
6 insurance companies, or other third-party adminis-
7 trators to provide for timely and accurate processing
8 of claims under this section.

9 “(4) PARTICIPATION BY NEW YORK CITY IN
10 MONITORING AND TREATMENT PROGRAM AND
11 COSTS.—

12 “(A) IN GENERAL.—In order for New
13 York City, any agency or Department thereof,
14 or the New York City Health and Hospitals
15 Corporation to qualify for a contract for the
16 provision of monitoring and treatment benefits
17 and other services under section 3006, New
18 York City is required to contribute a matching
19 amount of 10 percent of the amount of the cov-
20 ered monitoring and treatment payment (as de-
21 fined in subparagraph (B)). Such matching
22 amount shall be reduced by any payment made
23 by New York City, its agencies or departments
24 under a workers’ compensation plan or other
25 work-related injury of illness benefit plan for

1 covered treatment benefits as provided for in
2 section 3001(d)(2).

3 “(B) COVERED MONITORING AND TREAT-
4 MENT PAYMENT DEFINED.—For the purposes
5 of this paragraph, the term ‘covered monitoring
6 and treatment payment’ means payment under
7 paragraphs (1) and (2), including under such
8 paragraph as applied under section 3021(b),
9 3022(a), and 3023, and reimbursement under
10 3006(c) for items and services furnished by a
11 Clinical Center of Excellence or Coordinating
12 Center of Excellence, and providers designated
13 by the WTC Program under Section 3031,
14 after the application of paragraphs (2) and (3)
15 of section 3001 (d).

16 “(C) PAYMENT OF NEW YORK CITY SHARE
17 OF MONITORING AND TREATMENT COSTS.—The
18 WTC Program Administrator shall bill the
19 amount specified in subparagraph (A) directly
20 to New York City.

21 “(D) ENFORCEMENT OF NEW YORK CITY
22 SHARE OF MONITORING AND TREATMENT
23 COSTS.—To the extent that New York City fails
24 to pay its share of the monitoring and treat-
25 ment costs on a timely basis, the Administrator

1 shall reduce the reimbursement for all screen-
2 ing, monitoring, treatment, and administration
3 in a proportional amount, that when applied
4 will make up for the shortfall in payment by
5 New York City.

6 “(5) CLAIMS PROCESSING SUBJECT TO APPRO-
7 PRIATIONS.—The payment by the WTC Program
8 Administrator for the processing of claims under
9 this title is limited to the amounts provided in ad-
10 vance in appropriations Acts.

11 “(d) MEDICAL TREATMENT PROTOCOLS.—

12 “(1) DEVELOPMENT.—The Coordinating Cen-
13 ters of Excellence shall develop medical treatment
14 protocols for the treatment of certified eligible WTC
15 responders and certified eligible WTC community
16 members for identified WTC-related health condi-
17 tions.

18 “(2) APPROVAL.—The WTC Program Adminis-
19 trator shall approve the medical treatment protocols,
20 in consultation with the WTC Health Program
21 Steering Committees.

1 **“PART 2—COMMUNITY PROGRAM**
2 **“SEC. 3021. IDENTIFICATION AND SCREENING OF ELIGIBLE**
3 **WTC COMMUNITY MEMBERS.**

4 “(a) ELIGIBLE WTC COMMUNITY MEMBER DE-
5 FINED.—

6 “(1) IN GENERAL.—In this title, the term ‘eligi-
7 ble WTC community member’ means, subject to
8 paragraph (3), an individual who is not an eligible
9 WTC responder and is described in any of the fol-
10 lowing subparagraphs:

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

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

17 “(i) at least four days during the 4-
18 month period beginning on September 11,
19 2001, and ending on January 10, 2002; or

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

23 “(C) Any person who worked as a clean-up
24 worker or performed maintenance work in the
25 New York City disaster area during the 4-
26 month period described in subparagraph (B)(i)

1 and had extensive exposure to WTC dust as a
2 result of such work.

3 “(D) A person who was deemed eligible to
4 receive a grant from the Lower Manhattan De-
5 velopment Corporation Residential Grant Pro-
6 gram, who possessed a lease for a residence or
7 purchased a residence in the New York City
8 disaster area, and who resided in such residence
9 during the period beginning on September 11,
10 2001, and ending on May 31, 2003.

11 “(E) A person whose place of employ-
12 ment—

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

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

1 “(F) A person who was receiving treat-
2 ment as of the date of the enactment of this
3 title at the World Trade Center Environmental
4 Health Center operated by the New York City
5 Health and Hospitals Corporation.

6 “(2) ELIGIBILITY CRITERIA.—In establishing
7 eligibility criteria for purposes of subparagraphs (A)
8 through (F) of paragraph (1) and for purposes of
9 section 3011(a)(1)(C)(ii), the WTC Program Admin-
10 istrator shall—

11 “(A) take into account the period, and, to
12 the extent feasible, intensity, of exposure to air-
13 borne toxins, other hazard, or other adverse
14 condition;

15 “(B) base such criteria on best available
16 evidence of exposure and related adverse health
17 effects; and

18 “(C) consult with the WTC Community
19 Program Steering Committee, Coordinating
20 Centers of Excellence described in section
21 3006(b)(1)(C), and affected populations.

22 The Administrator shall first establish such criteria
23 not later than 90 days after the date of the enact-
24 ment of this title. The Administrator shall not mod-
25 ify such criteria on or after the date that the num-

1 ber of certifications for eligible community members
2 has reached 80 percent of the limit described in
3 paragraph (5) or on or after the date that the num-
4 ber of certifications for eligible responders has
5 reached 80 percent of the limit described in section
6 3021(a)(5).

7 “(3) APPLICATION PROCESS.—The WTC Pro-
8 gram Administrator in consultation with the Coordi-
9 nating Centers of Excellence shall establish a proc-
10 ess for individuals to be determined eligible WTC
11 community member. Under such process—

12 “(A) there shall be no fee charged to the
13 applicant for making an application for such
14 determination;

15 “(B) the Administrator shall make a deter-
16 mination on such an application not later than
17 60 days after the date of filing the application;
18 and

19 “(C) an individual who is determined not
20 to be an eligible WTC community member shall
21 have an opportunity to appeal such determina-
22 tion before an administrative law judge in a
23 manner established under such process.

24 “(4) CERTIFICATION.—

1 “(A) IN GENERAL.—In the case of an indi-
2 vidual who is determined under paragraph (3)
3 and consistent with paragraph (5) to be an eli-
4 gible WTC community member, the WTC Pro-
5 gram Administrator shall provide an appro-
6 priate certification of such fact and of eligibility
7 for treatment benefits under this part. The Ad-
8 ministrators shall make determinations of eligi-
9 bility relating to an applicant’s compliance with
10 this title, including the verification of informa-
11 tion submitted in support of the application and
12 shall not deny such a certification to an indi-
13 vidual unless the Administrator determines
14 that—

15 “(i) based on the application sub-
16 mitted, the individual does not meet the
17 eligibility criteria; or

18 “(ii) the numerical limitation on eligi-
19 ble WTC community members set forth in
20 paragraph (5) has been met.

21 “(B) TIMING.—

22 “(i) CURRENTLY IDENTIFIED COMMU-
23 NITY MEMBERS.—In the case of an indi-
24 vidual who is described in paragraph
25 (1)(F), the WTC Program Administrator

1 shall provide the certification under sub-
2 paragraph (A) not later than 60 days after
3 the date of the enactment of this title.

4 “(ii) OTHER MEMBERS.—In the case
5 of another individual who is determined
6 under paragraph (3) and consistent with
7 paragraph (5) to be an eligible WTC com-
8 munity member, the WTC Program Ad-
9 ministrator shall provide the certification
10 under subparagraph (A) at the time of
11 such determination.

12 “(5) NUMERICAL LIMITATION ON ELIGIBLE
13 WTC COMMUNITY MEMBERS.—

14 “(A) IN GENERAL.—The total number of
15 individuals not described in subparagraph (C)
16 who may qualify as eligible WTC community
17 members for purposes of this title, and be cer-
18 tified as eligible WTC community members
19 under paragraph (4), shall not exceed 15,000.
20 In applying the previous sentence, any indi-
21 vidual who at any time so qualifies as an eligi-
22 ble WTC community member shall be counted
23 against such numerical limitation.

1 “(B) PROCESS.—In implementing subpara-
2 graph (A), the WTC Program Administrator
3 shall—

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

7 “(ii) provide priority in such certifi-
8 cations in the order in which individuals
9 apply for a determination under paragraph
10 (3).

11 “(C) INDIVIDUALS CURRENTLY RECEIVING
12 TREATMENT NOT COUNTED.—Individuals de-
13 scribed in this subparagraph are individuals
14 who, before the date of the enactment of this
15 title, have received treatment for an identified
16 WTC-related condition for eligible WTC com-
17 munity members at the World Trade Center
18 Environmental Health Center at Bellevue Hos-
19 pital Center, Gouverneur Health Care Services,
20 or Elmhurst Hospital Center.

21 “(D) REPORT TO CONGRESS IF NUMER-
22 ICAL LIMITATION TO BE REACHED.—If the
23 WTC Program Administrator determines that
24 the number of individuals subject to the numer-
25 ical limitation of subparagraph (A) is likely to

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

9 “(b) SCREENING TO DETERMINE ELIGIBILITY FOR
10 TREATMENT.—

11 “(1) IN GENERAL.—In the case of a certified el-
12 igible WTC community member, the WTC program
13 shall provide for screening to determine if the mem-
14 ber has a WTC-related health condition and are eli-
15 gible for treatment under the WTC program.
16 Screening protocols shall be approved by the WTC
17 Program Administrator, in consultation with the
18 World Trade Center Environmental Health Center
19 at Bellevue Hospital and the WTC Community Pro-
20 gram Steering Committee.

21 “(2) SCREENING PROVIDERS.—The screening
22 described in paragraph (1) shall be provided through
23 a Clinical Center of Excellence with respect to the
24 individual involved.

1 “(3) LIMITATION ON SCREENING BENEFITS.—
2 Benefits for screening under this part for an eligible
3 WTC community member shall consist only of a sin-
4 gle medical screening consistent with screening pro-
5 tocols described in paragraph (1). Nothing in this
6 paragraph shall be construed as preventing such an
7 individual from seeking additional medical screening
8 at the expense of the individual.

9 **“SEC. 3022. TREATMENT OF CERTIFIED ELIGIBLE WTC**
10 **COMMUNITY MEMBERS FOR WTC-RELATED**
11 **HEALTH CONDITIONS.**

12 “(a) IN GENERAL.—Subject to subsection (b), the
13 provisions of section 3012 shall apply to the treatment of
14 WTC-related health conditions for certified eligible WTC
15 community members in the same manner as such provi-
16 sions apply to the treatment of identified WTC-related
17 health conditions for certified eligible WTC responders.

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

20 “(1) IDENTIFIED WTC-RELATED HEALTH CON-
21 DITIONS FOR WTC COMMUNITY MEMBERS.—For pur-
22 poses of this title, the term ‘identified WTC-related
23 health conditions for WTC community members’
24 means any of the following health conditions:

25 “(A) AERODIGESTIVE DISORDERS.—

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

15 “(2) APPLICATION FOR RECOMMENDATION TO
16 CONGRESS OF ADDITIONAL IDENTIFIED WTC-RE-
17 LATED HEALTH CONDITIONS FOR WTC COMMUNITY
18 MEMBERS.—The provisions of paragraph (4) of sec-
19 tion 3012(a) shall apply with respect to a rec-
20 ommendation to Congress of an addition to the list
21 of identified WTC-related conditions for eligible
22 WTC community members under paragraph (1) in
23 the same manner as such provisions apply to a rec-
24 ommendation to Congress of the addition to the list

1 of identified WTC-related conditions for eligible
2 WTC responders under section 3012(a)(3).

3 **“SEC. 3023. TREATMENT OF OTHER INDIVIDUALS WITH**
4 **WTC-RELATED HEALTH CONDITIONS.**

5 “(a) IN GENERAL.—Subject to subsection (c), the
6 provisions of section 3022 shall apply to the treatment of
7 WTC-related health conditions for eligible WTC commu-
8 nity members in the case of individuals described in sub-
9 section (b) in the same manner as such provisions apply
10 to the treatment of WTC-related health conditions for
11 WTC community members.

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

15 “(1) is not a eligible WTC responder or an eli-
16 gible WTC community member; and

17 “(2) is diagnosed at a Clinical Center of Excel-
18 lence (with respect to an eligible WTC community
19 member) with an identified WTC-related health con-
20 dition for WTC community members.

21 “(c) LIMITATION.—

22 “(1) IN GENERAL.—The WTC Program Admin-
23 istrator shall limit benefits for any fiscal year under
24 subsection (a) in a manner so that payments under
25 this section for such fiscal year do not exceed the

1 amount specified in paragraph (2) for such fiscal
2 year.

3 “(2) LIMITATION.—The amount specified in
4 this paragraph for—

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

6 “(B) a succeeding fiscal year is the
7 amount specified in this paragraph for the pre-
8 vious fiscal year increased by the annual per-
9 centage increase in the medical care component
10 of the consumer price index for all urban con-
11 sumers.

12 **“PART 3—NATIONAL ARRANGEMENT FOR BENE-**
13 **FITS FOR ELIGIBLE INDIVIDUALS OUTSIDE**
14 **NEW YORK**

15 **“SEC. 3031. NATIONAL ARRANGEMENT FOR BENEFITS FOR**
16 **ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK.**

17 “(a) IN GENERAL.—In order to ensure reasonable ac-
18 cess to benefits under this subtitle for individuals who are
19 eligible WTC responders or eligible WTC community
20 members and who reside in any State, as defined in sec-
21 tion 2(f), outside the New York metropolitan area, the
22 WTC Program Administrator shall establish a nationwide
23 network of health care providers to provide monitoring
24 and treatment benefits and screening near such individ-
25 uals’ areas of residence in such States. Nothing in this

1 subsection shall be construed as preventing such individ-
2 uals from being provided such monitoring and treatment
3 benefits or screening through a Clinical Center of Excel-
4 lence.

5 “(b) NETWORK REQUIREMENTS.—Any health care
6 provider participating in the network under subsection (a)
7 shall—

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

10 “(2) follow the monitoring, screening, and
11 treatment protocols developed under section
12 3006(a)(2)(B);

13 “(3) collect and report data in accordance with
14 section 3005; and

15 “(4) meet such fraud, quality assurance, and
16 other requirements as the WTC Program Adminis-
17 trator establishes.

18 **“Subtitle C—Research Into** 19 **Conditions**

20 **“SEC. 3041. RESEARCH REGARDING CERTAIN HEALTH CON-**
21 **DITIONS RELATED TO SEPTEMBER 11 TER-**
22 **RORIST ATTACKS IN NEW YORK CITY.**

23 “(a) IN GENERAL.—With respect to individuals, in-
24 cluding eligible WTC responders and eligible WTC com-
25 munity members, receiving monitoring or treatment under

1 subtitle B, the WTC Program Administrator shall conduct
2 or support—

3 “(1) research on physical and mental health
4 conditions that may be related to the September 11,
5 2001, terrorist attacks;

6 “(2) research on diagnosing WTC-related
7 health conditions of such individuals, in the case of
8 conditions for which there has been diagnostic un-
9 certainty; and

10 “(3) research on treating WTC-related health
11 conditions of such individuals, in the case of condi-
12 tions for which there has been treatment uncer-
13 tainty.

14 The Administrator may provide such support through con-
15 tinuation and expansion of research that was initiated be-
16 fore the date of the enactment of this title and through
17 the World Trade Center Health Registry (referred to in
18 section 3051), through a Clinical Center of Excellence, or
19 through a Coordinating Center of Excellence.

20 “(b) TYPES OF RESEARCH.—The research under
21 subsection (a)(1) shall include epidemiologic and other re-
22 search studies on WTC-related conditions or emerging
23 conditions—

24 “(1) among WTC responders and community
25 members under treatment; and

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

6 “(c) CONSULTATION.—The WTC Program Adminis-
7 trator shall carry out this section in consultation with the
8 WTC Health Program Steering Committees and the WTC
9 Scientific/Technical Advisory Committee.

10 “(d) APPLICATION OF PRIVACY AND HUMAN SUB-
11 JECT PROTECTIONS.—The privacy and human subject
12 protections applicable to research conducted under this
13 section shall not be less than such protections applicable
14 to research otherwise conducted by the National Institutes
15 of Health.

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

1 **“Subtitle D—Programs of the New**
2 **York City Department of Health**
3 **and Mental Hygiene**

4 **“SEC. 3051. WORLD TRADE CENTER HEALTH REGISTRY.**

5 “(a) PROGRAM EXTENSION.—For the purpose of en-
6 suring on-going data collection for victims of the Sep-
7 tember 11, 2001, terrorist attacks on the World Trade
8 Center, the WTC Program Administrator, shall extend
9 and expand the arrangements in effect as of January 1,
10 2008, with the New York City Department of Health and
11 Mental Hygiene that provide for the World Trade Center
12 Health Registry.

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

16 **“SEC. 3052. MENTAL HEALTH SERVICES.**

17 “(a) IN GENERAL.—The WTC Program Adminis-
18 trator may make grants to the New York City Department
19 of Health and Mental Hygiene to provide mental health
20 services to address mental health needs relating to the
21 September 11, 2001, terrorist attacks on the World Trade
22 Center.

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

1 **TITLE II—SEPTEMBER 11TH VIC-**
2 **TIM COMPENSATION FUND OF**
3 **2001**

4 **SEC. 201. DEFINITIONS.**

5 Section 402 of the Air Transportation Safety and
6 System Stabilization Act (49 U.S.C. 40101 note) is
7 amended—

8 (1) in paragraph (6) by inserting “, or debris
9 removal, including under the World Trade Center
10 Health Program established under section 3001 of
11 the Public Health Service Act,” after “September
12 11, 2001”;

13 (2) by inserting after paragraph (6) the fol-
14 lowing new paragraphs and redesignating subse-
15 quent paragraphs accordingly:

16 “(7) CONTRACTOR AND SUBCONTRACTOR.—The
17 term ‘contractor and subcontractor’ means any con-
18 tractor or subcontractor (at any tier of a subcon-
19 tracting relationship), including any general con-
20 tractor, construction manager, prime contractor,
21 consultant, or any parent, subsidiary, associated or
22 allied company, affiliated company, corporation,
23 firm, organization, or joint venture thereof that par-
24 ticipated in debris removal at any 9/11 crash site.
25 Such term shall not include any entity, including the

1 Port Authority of New York and New Jersey, with
2 a property interest in the World Trade Center, on
3 September 11, 2001, whether fee simple, leasehold
4 or easement, direct or indirect.

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

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

14 “(11) IMMEDIATE AFTERMATH.—The term ‘im-
15 mediate aftermath’ means any period beginning with
16 the terrorist-related aircraft crashes of September
17 11, 2001, and ending on August 30, 2002.”; and

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

20 “(14) 9/11 CRASH SITE.—The term ‘9/11 crash
21 site’ means—

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

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

4 “(C) any area contiguous to a site of such
5 crashes that the Special Master determines was
6 sufficiently close to the site that there was a de-
7 monstrable risk of physical harm resulting from
8 the impact of the aircraft or any subsequent
9 fire, explosions, or building collapses (including
10 the immediate area in which the impact oc-
11 curred, fire occurred, portions of buildings fell,
12 or debris fell upon and injured individuals); and

13 “(D) any area related to, or along, routes
14 of debris removal, such as barges and Fresh
15 Kills.”.

16 **SEC. 202. EXTENDED AND EXPANDED ELIGIBILITY FOR**
17 **COMPENSATION.**

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

23 (1) in clause (i), by inserting “, or debris re-
24 moval during the immediate aftermath” after “Sep-
25 tember 11, 2001”; and

1 (2) in clause (ii), by inserting “or debris re-
2 moval during the immediate aftermath” after
3 “crashes”.

4 (3) in clause (iii), by inserting “or debris re-
5 moval during the immediate aftermath” after
6 “crashes”.

7 (b) EXTENSION OF DEADLINE FOR CLAIMS UNDER
8 SEPTEMBER 11TH VICTIM COMPENSATION FUND OF
9 2001.—Section 405(a)(3) of such Act is amended to read
10 as follows:

11 “(3) LIMITATION.—

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

17 “(B) EXCEPTION.—A claim may be filed
18 under paragraph (1), in accordance with sub-
19 section (c)(3)(A)(i), by an individual (or by a
20 personal representative on behalf of a deceased
21 individual) during the period beginning on the
22 date on which the regulations are updated
23 under section 407(b) and ending on December
24 22, 2031.”.

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

4 (1) by redesignating subparagraphs (A) and
5 (B) as subparagraphs (B) and (C), respectively; and

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

8 “(A) REQUIREMENTS FOR FILING CLAIMS
9 DURING EXTENDED FILING PERIOD.—

10 “(i) TIMING REQUIREMENTS FOR FILING
11 CLAIMS.—An individual (or a personal
12 representative on behalf of a deceased indi-
13 vidual) may file a claim during the period
14 described in subsection (a)(3)(B) as fol-
15 lows:

16 “(I) In the case that the Special
17 Master determines the individual
18 knew (or reasonably should have
19 known) before the date specified in
20 clause (iii) that the individual suffered
21 a physical harm at a 9/11 crash site
22 as a result of the terrorist-related air-
23 craft crashes of September 11, 2001,
24 or as a result of debris removal, and
25 that the individual knew (or should

1 have known) before such specified
2 date that the individual was eligible to
3 file a claim under this title, the indi-
4 vidual may file a claim not later than
5 the date that is 2 years after such
6 specified date.

7 “(II) In the case that the Special
8 Master determines the individual first
9 knew (or reasonably should have
10 known) on or after the date specified
11 in clause (iii) that the individual suf-
12 fered such a physical harm or that the
13 individual first knew (or should have
14 known) on or after such specified date
15 that the individual was eligible to file
16 a claim under this title, the individual
17 may file a claim not later than the
18 last day of the 2-year period begin-
19 ning on the date the Special Master
20 determines the individual first knew
21 (or should have known) that the indi-
22 vidual both suffered from such harm
23 and was eligible to file a claim under
24 this title.

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

5 “(I) the individual was treated by
6 a medical professional for suffering
7 from a physical harm described in
8 clause (i)(I) within a reasonable time
9 from the date of discovering such
10 harm; and

11 “(II) the individual’s physical
12 harm is verified by contemporaneous
13 medical records created by or at the
14 direction of the medical professional
15 who provided the medical care.

16 “(iii) DATE SPECIFIED.—The date
17 specified in this clause is the date on which
18 the regulations are updated under section
19 407(a).”.

20 (d) CLARIFYING APPLICABILITY TO ALL 9/11 CRASH
21 SITES.—Section 405(c)(2)(A)(i) of such Act is amended
22 by striking “or the site of the aircraft crash at Shanksville,
23 Pennsylvania” and inserting “the site of the aircraft crash
24 at Shanksville, Pennsylvania, or any other 9/11 crash
25 site”.

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

5 (f) LIMITATIONS ON CIVIL ACTIONS.—

6 (1) APPLICATION TO DAMAGES RELATED TO
7 DEBRIS REMOVAL.—Clause (i) of section
8 405(c)(3)(C) of such Act, as redesignated by sub-
9 section (c), is amended by inserting “, or for dam-
10 ages arising from or related to debris removal” after
11 “September 11, 2001”.

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

15 “(ii) PENDING ACTIONS.—In the case
16 of an individual who is a party to a civil
17 action described in clause (i), such indi-
18 vidual may not submit a claim under this
19 title—

20 “(I) during the period described
21 in subsection (a)(3)(A) unless such in-
22 dividual withdraws from such action
23 by the date that is 90 days after the
24 date on which regulations are promul-
25 gated under section 407(a); and

1 “(II) during the period described
2 in subsection (a)(3)(B) unless such in-
3 dividual withdraws from such action
4 by the date that is 90 days after the
5 date on which the regulations are up-
6 dated under section 407(b).”.

7 (3) AUTHORITY TO REINSTITUTE CERTAIN
8 LAWSUITS.—Such section, as so redesignated, is fur-
9 ther amended by adding at the end the following
10 new clause:

11 “(iii) AUTHORITY TO REINSTITUTE
12 CERTAIN LAWSUITS.—In the case of a
13 claimant who was a party to a civil action
14 described in clause (i), who withdrew from
15 such action pursuant to clause (ii), and
16 who is subsequently determined to not be
17 an eligible individual for purposes of this
18 subsection, such claimant may reinstitute
19 such action without prejudice during the
20 90-day period beginning after the date of
21 such ineligibility determination.”.

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

23 Section 407 of the Air Transportation Safety and
24 System Stabilization Act (49 U.S.C. 40101 note) is
25 amended—

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

3 (2) by adding at the end the following new sub-
4 section:

5 “(b) UPDATED REGULATIONS.—Not later than 90
6 days after the date of the enactment of the James Zadroga
7 9/11 Health and Compensation Act of 2008, the Special
8 Master shall update the regulations promulgated under
9 subsection (a) to the extent necessary to comply with the
10 provisions of title II of such Act.”.

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

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

16 “(4) LIABILITY FOR CERTAIN CLAIMS.—

17 “(A) IN GENERAL.—Notwithstanding any
18 other provision of law, subject to subparagraph
19 (B), liability for all claims and actions (includ-
20 ing claims or actions that have been previously
21 resolved, that are currently pending, and that
22 may be filed through December 22, 2031) for
23 compensatory damages, contribution or indem-
24 nity, or any other form or type of relief, arising
25 from or related to debris removal, against the

1 City of New York, any entity (including the
2 Port Authority of New York and New Jersey)
3 with a property interest in the World Trade
4 Center on September 11, 2001 (whether fee
5 simple, leasehold or easement, or direct or indi-
6 rect) and any contractors and subcontractors
7 thereof, shall not be in an amount that exceeds
8 the sum of the following:

9 “(i) The amount of funds of the WTC
10 Captive Insurance Company, including the
11 cumulative interest.

12 “(ii) The amount of all available in-
13 surance identified in schedule 2 of the
14 WTC Captive Insurance Company insur-
15 ance policy.

16 “(iii) The amount that is the greater
17 of the City of New York’s insurance cov-
18 erage or \$350,000,000. In determining the
19 amount of the City’s insurance coverage
20 for purposes of the previous sentence, any
21 amount described in clauses (i) and (ii)
22 shall not be included.

23 “(iv) The amount of all available li-
24 ability insurance coverage maintained by
25 any entity, including the Port Authority of

1 New York and New Jersey, with a prop-
2 erty interest in the World Trade Center,
3 on September 11, 2001, whether fee sim-
4 ple, leasehold or easement, or direct or in-
5 direct.

6 “(v) The amount of all available liabil-
7 ity insurance coverage maintained by con-
8 tractors and subcontractors.

9 “(B) EXCEPTION.—Subparagraph (A)
10 shall not apply to claims or actions based upon
11 conduct held to be intentionally tortious in na-
12 ture or to acts of gross negligence or other such
13 acts to the extent to which punitive damages
14 are awarded as a result of such conduct or acts.

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

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

22 “(B) If there are no funds available as de-
23 scribed in clause (i) or (ii) of paragraph (4)(A),
24 the funds described in clause (iii) of such para-
25 graph.

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

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

9 “(6) DECLARATORY JUDGMENT ACTIONS AND
 10 DIRECT ACTION.—Any party to a claim or action to
 11 which paragraph (4)(A) applies may, with respect to
 12 such claim or action, either file an action for a de-
 13 claratory judgment for insurance coverage or bring
 14 a direct action against the insurance company in-
 15 volved.”.

16 **TITLE III—REVENUE** 17 **PROVISIONS**

18 **Subtitle A—Codification of** 19 **Economic Substance Doctrine**

20 **SEC. 301. CODIFICATION OF ECONOMIC SUBSTANCE DOC-** 21 **TRINE.**

22 (a) IN GENERAL.—Section 7701 of the Internal Rev-
 23 enue Code of 1986 is amended by redesignating subsection
 24 (p) as subsection (q) and by inserting after subsection (o)
 25 the following new subsection:

1 “(p) CLARIFICATION OF ECONOMIC SUBSTANCE
2 DOCTRINE.—

3 “(1) APPLICATION OF DOCTRINE.—In the case
4 of any transaction to which the economic substance
5 doctrine is relevant, such transaction shall be treated
6 as having economic substance only if—

7 “(A) the transaction changes in a mean-
8 ingful way (apart from Federal income tax ef-
9 fects) the taxpayer’s economic position, and

10 “(B) the taxpayer has a substantial pur-
11 pose (apart from Federal income tax effects)
12 for entering into such transaction.

13 “(2) SPECIAL RULE WHERE TAXPAYER RELIES
14 ON PROFIT POTENTIAL.—

15 “(A) IN GENERAL.—The potential for
16 profit of a transaction shall be taken into ac-
17 count in determining whether the requirements
18 of subparagraphs (A) and (B) of paragraph (1)
19 are met with respect to the transaction only if
20 the present value of the reasonably expected
21 pre-tax profit from the transaction is substan-
22 tial in relation to the present value of the ex-
23 pected net tax benefits that would be allowed if
24 the transaction were respected.

1 “(B) TREATMENT OF FEES AND FOREIGN
2 TAXES.—Fees and other transaction expenses
3 and foreign taxes shall be taken into account as
4 expenses in determining pre-tax profit under
5 subparagraph (A).

6 “(3) STATE AND LOCAL TAX BENEFITS.—For
7 purposes of paragraph (1), any State or local income
8 tax effect which is related to a Federal income tax
9 effect shall be treated in the same manner as a Fed-
10 eral income tax effect.

11 “(4) FINANCIAL ACCOUNTING BENEFITS.—For
12 purposes of paragraph (1)(B), achieving a financial
13 accounting benefit shall not be taken into account as
14 a purpose for entering into a transaction if such
15 transaction results in a Federal income tax benefit.

16 “(5) DEFINITIONS AND SPECIAL RULES.—For
17 purposes of this subsection—

18 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
19 The term ‘economic substance doctrine’ means
20 the common law doctrine under which tax bene-
21 fits under subtitle A with respect to a trans-
22 action are not allowable if the transaction does
23 not have economic substance or lacks a business
24 purpose.

1 “(B) EXCEPTION FOR PERSONAL TRANS-
2 ACTIONS OF INDIVIDUALS.—In the case of an
3 individual, paragraph (1) shall apply only to
4 transactions entered into in connection with a
5 trade or business or an activity engaged in for
6 the production of income.

7 “(C) OTHER COMMON LAW DOCTRINES
8 NOT AFFECTED.—Except as specifically pro-
9 vided in this subsection, the provisions of this
10 subsection shall not be construed as altering or
11 supplanting any other rule of law, and the re-
12 quirements of this subsection shall be construed
13 as being in addition to any such other rule of
14 law.

15 “(D) DETERMINATION OF APPLICATION OF
16 DOCTRINE NOT AFFECTED.—The determination
17 of whether the economic substance doctrine is
18 relevant to a transaction shall be made in the
19 same manner as if this subsection had never
20 been enacted.

21 “(6) REGULATIONS.—The Secretary shall pre-
22 scribe such regulations as may be necessary or ap-
23 propriate to carry out the purposes of this sub-
24 section. Such regulations may include exemptions
25 from the application of this subsection.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transactions entered into after
3 the date of the enactment of this Act.

4 **SEC. 302. PENALTIES FOR UNDERPAYMENTS.**

5 (a) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE
6 TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.—

7 (1) IN GENERAL.—Subsection (b) of section
8 6662 of the Internal Revenue Code of 1986 is
9 amended by inserting after paragraph (5) the fol-
10 lowing new paragraph:

11 “(6) Any disallowance of claimed tax benefits
12 by reason of a transaction lacking economic sub-
13 stance (within the meaning of section 7701(p)) or
14 failing to meet the requirements of any similar rule
15 of law.”.

16 (2) INCREASED PENALTY FOR NONDISCLOSED
17 TRANSACTIONS.—Section 6662 of such Code is
18 amended by adding at the end the following new
19 subsection:

20 “(i) INCREASE IN PENALTY IN CASE OF NONDIS-
21 CLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

22 “(1) IN GENERAL.—To the extent that a por-
23 tion of the underpayment to which this section ap-
24 plies is attributable to one or more nondisclosed non-
25 economic substance transactions, subsection (a) shall

1 be applied with respect to such portion by sub-
2 stituting ‘40 percent’ for ‘20 percent’.

3 “(2) NONDISCLOSED NONECONOMIC SUB-
4 STANCE TRANSACTIONS.—For purposes of this sub-
5 section, the term ‘nondisclosed noneconomic sub-
6 stance transaction’ means any portion of a trans-
7 action described in subsection (b)(6) with respect to
8 which the relevant facts affecting the tax treatment
9 are not adequately disclosed in the return nor in a
10 statement attached to the return.

11 “(3) SPECIAL RULE FOR AMENDED RE-
12 TURNS.—Except as provided in regulations, in no
13 event shall any amendment or supplement to a re-
14 turn of tax be taken into account for purposes of
15 this subsection if the amendment or supplement is
16 filed after the earlier of the date the taxpayer is first
17 contacted by the Secretary regarding the examina-
18 tion of the return or such other date as is specified
19 by the Secretary.”.

20 (3) CONFORMING AMENDMENT.—Subparagraph
21 (B) of section 6662A(e)(2) of such Code is amend-
22 ed—

23 (A) by striking “section 6662(h)” and in-
24 serting “subsection (h) or (i) of section 6662”,
25 and

1 (B) by striking “GROSS VALUATION
2 MISSTATEMENT PENALTY” in the heading and
3 inserting “CERTAIN INCREASED UNDER-
4 PAYMENT PENALTIES”.

5 (b) REASONABLE CAUSE EXCEPTION NOT APPLICA-
6 BLE TO NONECONOMIC SUBSTANCE TRANSACTIONS, TAX
7 SHELTERS, AND CERTAIN LARGE CORPORATIONS.—Sub-
8 section (c) of section 6664 of such Code is amended—

9 (1) by redesignating paragraphs (2) and (3) as
10 paragraphs (3) and (4), respectively,

11 (2) by striking “paragraph (2)” in paragraph
12 (4), as so redesignated, and inserting “paragraph
13 (3)”, and

14 (3) by inserting after paragraph (1) the fol-
15 lowing new paragraph:

16 “(2) EXCEPTION FOR NONECONOMIC SUB-
17 STANCE TRANSACTIONS, TAX SHELTERS, AND CER-
18 TAIN LARGE CORPORATIONS.—Paragraph (1) shall
19 not apply—

20 “(A) to any portion of an underpayment
21 which is attributable to one or more tax shelters
22 (as defined in section 6662(d)(2)(C)) or trans-
23 actions described in section 6662(b)(6), and

1 “(B) to any taxpayer if such taxpayer is a
2 specified large corporation (as defined in section
3 6662(d)(2)(D)(ii)).”.

4 (c) APPLICATION OF PENALTY FOR ERRONEOUS
5 CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUB-
6 STANCE TRANSACTIONS.—Section 6676 of such Code is
7 amended by redesignating subsection (c) as subsection (d)
8 and inserting after subsection (b) the following new sub-
9 section:

10 “(c) NONECONOMIC SUBSTANCE TRANSACTIONS
11 TREATED AS LACKING REASONABLE BASIS.—For pur-
12 poses of this section, any excessive amount which is attrib-
13 utable to any transaction described in section 6662(b)(6)
14 shall not be treated as having a reasonable basis.”.

15 (d) SPECIAL UNDERSTATEMENT REDUCTION RULE
16 FOR CERTAIN LARGE CORPORATIONS.—

17 (1) IN GENERAL.—Paragraph (2) of section
18 6662(d) of such Code is amended by adding at the
19 end the following new subparagraph:

20 “(D) SPECIAL REDUCTION RULE FOR CER-
21 TAIN LARGE CORPORATIONS.—

22 “(i) IN GENERAL.—In the case of any
23 specified large corporation—

24 “(I) subparagraph (B) shall not
25 apply, and

1 “(II) the amount of the under-
2 statement under subparagraph (A)
3 shall be reduced by that portion of the
4 understatement which is attributable
5 to any item with respect to which the
6 taxpayer has a reasonable belief that
7 the tax treatment of such item by the
8 taxpayer is more likely than not the
9 proper tax treatment of such item.

10 “(ii) SPECIFIED LARGE CORPORA-
11 TION.—

12 “(I) IN GENERAL.—For purposes
13 of this subparagraph, the term ‘speci-
14 fied large corporation’ means any cor-
15 poration with gross receipts in excess
16 of \$100,000,000 for the taxable year
17 involved.

18 “(II) AGGREGATION RULE.—All
19 persons treated as a single employer
20 under section 52(a) shall be treated as
21 one person for purposes of subclause
22 (I).”.

23 (2) CONFORMING AMENDMENT.—Subparagraph
24 (C) of section 6662(d)(2) of such Code is amended

1 by striking “Subparagraph (B)” and inserting “Sub-
2 paragraphs (B) and (D)(i)(II)”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 the date of the enactment of this Act.

6 **Subtitle B—Prevention of Tax**
7 **Treaty Exploitation to Evade**
8 **United States Taxation**

9 **SEC. 311. LIMITATION ON TREATY BENEFITS FOR CERTAIN**
10 **DEDUCTIBLE PAYMENTS.**

11 (a) IN GENERAL.—Section 894 (relating to income
12 affected by treaty) is amended by adding at the end the
13 following new subsection:

14 “(d) LIMITATION ON TREATY BENEFITS FOR CER-
15 TAIN DEDUCTIBLE PAYMENTS.—

16 “(1) IN GENERAL.—In the case of any deduct-
17 ible related-party payment, any withholding tax im-
18 posed under chapter 3 (and any tax imposed under
19 subpart A or B of this part) with respect to such
20 payment may not be reduced under any treaty of the
21 United States unless any such withholding tax would
22 be reduced under a treaty of the United States if
23 such payment were made directly to the foreign par-
24 ent corporation.

1 “(2) DEDUCTIBLE RELATED-PARTY PAY-
2 MENT.—For purposes of this subsection, the term
3 ‘deductible related-party payment’ means any pay-
4 ment made, directly or indirectly, by any person to
5 any other person if the payment is allowable as a de-
6 duction under this chapter and both persons are
7 members of the same foreign controlled group of en-
8 tities.

9 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
10 TIES.—For purposes of this subsection—

11 “(A) IN GENERAL.—The term ‘foreign
12 controlled group of entities’ means a controlled
13 group of entities the common parent of which
14 is a foreign corporation.

15 “(B) CONTROLLED GROUP OF ENTITIES.—
16 The term ‘controlled group of entities’ means a
17 controlled group of corporations as defined in
18 section 1563(a)(1), except that—

19 “(i) ‘more than 50 percent’ shall be
20 substituted for ‘at least 80 percent’ each
21 place it appears therein, and

22 “(ii) the determination shall be made
23 without regard to subsections (a)(4) and
24 (b)(2) of section 1563.

1 A partnership or any other entity (other than a
2 corporation) shall be treated as a member of a
3 controlled group of entities if such entity is con-
4 trolled (within the meaning of section
5 954(d)(3)) by members of such group (includ-
6 ing any entity treated as a member of such
7 group by reason of this sentence).

8 “(4) FOREIGN PARENT CORPORATION.—For
9 purposes of this subsection, the term ‘foreign parent
10 corporation’ means, with respect to any deductible
11 related-party payment, the common parent of the
12 foreign controlled group of entities referred to in
13 paragraph (3)(A).

14 “(5) REGULATIONS.—The Secretary may pre-
15 scribe such regulations or other guidance as are nec-
16 essary or appropriate to carry out the purposes of
17 this subsection, including regulations or other guid-
18 ance which provide for—

19 “(A) the treatment of two or more persons
20 as members of a foreign controlled group of en-
21 tities if such persons would be the common par-
22 ent of such group if treated as one corporation,
23 and

24 “(B) the treatment of any member of a
25 foreign controlled group of entities as the com-

1 mon parent of such group if such treatment is
2 appropriate taking into account the economic
3 relationships among such entities.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to payments made after the date
6 of the enactment of this Act.

7 **Subtitle C—Corporate Estimated**
8 **Taxes**

9 **SEC. 321. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
10 **TAXES.**

11 The percentage under subparagraph (C) of section
12 401(1) of the Tax Increase Prevention and Reconciliation
13 Act of 2005 in effect on the date of the enactment of this
14 Act is increased by 5 percentage points.

○