

**FOR IMMEDIATE RELEASE**

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**GILLIBRAND, SCHUMER ANNOUNCE FINAL SENATE PASSAGE OF MAJOR LEGISLATION  
PROVIDING HEALTH CARE TO HEROIC 9/11 FIRST RESPONDERS—BILL SHOULD REACH  
PRESIDENT’S DESK LATER TODAY**

*After Marathon Negotiations, Senators Brokered Eleventh-Hour Compromise With GOP, Clearing  
Way for Measure’s Unanimous Approval*

*Bill’s Passage Marks End of Almost Decade-Long Effort To Ensure Those Who Rushed Toward the  
Fallen Towers Received The Care They Deserve*

*Senators: This is the Christmas Miracle We’ve All Been Looking For*

**WASHINGTON, DC**—U.S. Senators Kirsten E. Gillibrand (D-NY) and Charles E. Schumer (D-NY) announced Wednesday that the Senate has unanimously passed major legislation to finally provide health care for 9/11 first responders who fell ill in the years after performing rescue work at Ground Zero. The breakthrough came after marathon negotiations between the New York senators and Senators Mike Enzi (R-WY) and Tom Coburn (R-OK) produced a compromise measure that reduced the bill’s cost without reducing benefits for rescue workers.

In a joint statement, Gillibrand and Schumer said: “The Christmas Miracle we’ve been looking for has arrived. Over the last 24 hours, our Republican colleagues have negotiated in good faith to forge a workable final package that will protect the health of the men and women who selflessly answered our nation’s call in her hour of greatest need. We are pleased to announce that we crafted an agreement that will allow this legislation to pass the Senate, and the House, this afternoon. We thank our Republican friends for coming together to fulfill America’s moral obligation to the heroes of 9/11.

The senators added: “This has been a long process, but we are now on the cusp of the victory these heroes deserve. We would not be here without the strong leadership of Majority Leader Reid, Congresswoman Maloney, Congressman Nadler, Congressman King, Congressman Weiner, Congressman Crowley, Congressman McMahon, the entire New York Congressional delegation, and most of all, the many brave first responders and community survivors.”

The critical legislation was first introduced in 2009 and it passed the House in September. The measure failed on a party-line vote when it was first taken up by the Senate earlier this month. Despite these obstacles, Schumer and Gillibrand continued to fight for another vote before the end of the session, and Majority Leader Harry Reid (D-NV) has said he would bring the measure back up.

Earlier this week, the New York senators reduced the cost of the bill by \$1.2 billion and changed the way it was paid for. The move gave the senators the 60 votes needed to advance the measure. But yesterday, Coburn announced that unless certain changes were made, he would hold up the measure long enough to potentially defeat it.

Gillibrand and Schumer conducted negotiations with both Coburn and Enzi until after midnight last night.

In the end, the senators agreed to a bill that reduced costs even further. The final price tag, \$4.3 billion, includes \$1.8 billion to provide health care for first-responders and \$2.5 billion to re-open the Victims Compensation Fund (VCF). The cost reductions came because the authorization of the health program shrank from 8 years to 5. The revised measure also calls for studies into potential cost-saving options for the programs. It also tightens the cap on fees paid to attorneys that represent VCF claimants.

In a major win for the bill's advocates, the senators successfully preserved language in the bill that ensures physician payment rates are fair and continue to allow patient access. The reimbursement rates for the doctors and medical professionals treating the victims in the bill is the same that the government currently uses for other government officials, such as postal workers and Peace Corps volunteers.

A summary of the bill, which includes a list of the changes negotiated with Senators Enzi and Coburn, appears below.

**FINAL SENATE VERSION OF 9/11 HEALTH BILL**  
***AS NEGOTIATED BY SENATORS GILLIBRAND, SCHUMER, ENZI & COBURN***

**KEY FACTS**

Thousands of first responders and others exposed to the toxins of Ground Zero are now sick and in need of treatment and compensation. This bill would build on the existing program to provide long-term, comprehensive health care and compensation for those in need. The bill would do the following:

- **Cost: \$4.3 billion (\$1.8 billion in health treatment program; \$2.5 billion to re-open the Victims Compensation Fund)**
- **Length: 5-year authorization of the health treatment fund; 5-year re-opening of the Victims Compensation Fund.**

**MAJOR PROVISIONS**

- **Establish the World Trade Center (WTC) Health Program**, within the National Institute for Occupational Safety and Health (NIOSH), to provide medical monitoring and treatment for WTC-related conditions to WTC responders and WTC survivors, delivered through Centers of Excellence. The WTC Program Administrator is required to develop and implement a program to ensure the quality of medical monitoring and treatment, a program to detect fraud, and to submit an annual report to Congress on the operation of the program.

If responder is determined to be eligible for monitoring based on the monitoring eligibility criteria provided for in the bill, then that responder has a right to medical monitoring that is paid for by the program.

Once a responder is in monitoring, the patient can receive treatment only if their condition is on the list of Identified WTC-related conditions in the bill AND the physician determines that 'exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the

attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness.’ The physician’s determination must be evaluated and characterized through the use of appropriate questionnaires and clinical protocols approved by the NIOSH Director. A federal employee designated by the Program Administrator shall review the determination and provide certification for treatment if appropriate.

The program pays for the costs for medical treatment for certified WTC-related health conditions at a payment rate based on Federal Employees Compensation Act (FECA) rates (FECA rates are used in all federal compensation systems, like Energy Workers, Black Lung, Longshoremen, and compensation for Members of Congress). Treatment is limited to that which is medically necessary. The administrator reviews the determination of medical necessity and decides if payment will be made.

Workers’ Compensation and public or private insurance are primary payers, followed by the government, if there are no worker’s compensation benefits or private or public insurance.

As of March 31, there were more than 55,000 people enrolled in the current Responder Program. The bill sets a cap of 25,000 additional participants in the program, for a total cap of around 80,000 responders.

- **Establish the WTC National Responder Program:** The program administrator will establish a nationwide network of providers so that eligible individuals who live outside of the New York/New Jersey area can reasonably access monitoring and treatment benefits near where they live. There are more than 4,000 responders enrolled in the current National Responder Program, as of March 31, 2010.
- **Establish the WTC Survivor Program:** The bill establishes a Survivor program to provide initial health screenings, medical treatment, and follow-up monitoring to eligible WTC survivors. It sets forth geographic and exposure criteria for defining the potential population who may be eligible for the program (i.e. those who lived, worked or were present in lower Manhattan, south of Houston Street, or in Brooklyn within a 1.5 mile radius of the WTC site for certain defined time periods). The criteria and procedures for determinations of eligibility, diagnosing WTC-related health conditions and certification are the same as for those in the responder health program.

For those WTC-related health conditions certified for medical treatment that are not work-related, the WTC program is the secondary payer to any applicable public or private health insurance. For those costs not covered by other insurance, the program pays for the costs for medical treatment for certified WTC-related health conditions at a payment rate based on FECA rates.

As of March 31, 2010, there were more than 4,000 individuals enrolled in the Survivor program. The bill sets a cap of 15,000 additional survivors, for a total cap of around 19,000.

There is a contingency fund of \$20 million per year established to pay the cost of WTC-related health claims that may arise in individuals who fall outside the more limited definition of the population eligible for the survivor program included in the revised bill.

- **Cost Share for the City of New York:** The City of New York is required to contribute a 10 percent matching cost share, but not more than \$500 million over 10 years.

- **Reopen the September 11 Victim Compensation Fund (VCF):** The Fund provides liability protections for the WTC Contractors to provide fair compensation for economic losses and harm as an alternative to the current litigation system.

#### **CHANGES MADE DURING DISCUSSIONS WITH SENATE GOP**

The final version of the legislation:

- Clarifies that the Victim's Compensation Fund stops taking claims after 5 years and stops paying claims after 6 years. The bill as passed by the House kept the VCF open for 20 years and kept the life of the VCF's claims process open for 15 years.
- Deletes the authority of claimants to reinstate their civil claims in the event that they are found ineligible under the fund. Under the House version of the bill, any claimant who dropped their civil suit in order to seek compensation from the VCF would be able to then go back and sue in civil court anyway if the VCF decided that they are not eligible for compensation. This new language will clarify that for any victim that seeks compensation from the VCF, the Special Master is the final arbiter and the victim cannot return to civil court after he rules.
- Places a hard cap of attorneys' fees at 10 percent with ability for Special Master to adjust downward if the award of attorneys' fees would be excessive. Under the House version of the bill, attorney's fees are capped at 10 percent, with limited exceptions to exceed the cap. This language places a hard 10 percent cap on all cases, and gives the Special Master individual discretion on a case by case basis to lower the fees for those cases where 10% of the reward results in an excessively high dollar figure.
- Mandates the completion of Government Accountability Office (GAO) analysis that will examine (1) the feasibility of administering the workers' health program through the Veterans Administration, (2) the most cost-effective method of prescription drug reimbursement, and (3) ensure efficient health IT systems.
- Relies on fewer offsets. Specifically, the bill no longer includes the \$10 tourism fee at all and it reduces the extension of the fee on certain H1B visa applications for only one year rather than five.

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