

118TH CONGRESS  
1ST SESSION

# S. 569

To amend title XXXIII of the Public Health Service Act with respect to flexibility and funding for the World Trade Center Health Program.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2023

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

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## A BILL

To amend title XXXIII of the Public Health Service Act with respect to flexibility and funding for the World Trade Center Health Program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “9/11 Responder and  
5 Survivor Health Funding Correction Act of 2023”.

1 **SEC. 2. DEPARTMENT OF DEFENSE, ARMED FORCES, OR**  
2 **OTHER FEDERAL WORKER RESPONDERS TO**  
3 **THE SEPTEMBER 11 ATTACKS AT THE PEN-**  
4 **TAGON AND SHANKSVILLE, PENNSYLVANIA.**

5 Title XXXIII of the Public Health Service Act (42  
6 U.S.C. 300mm et seq.) is amended—

7 (1) in section 3306 (42 U.S.C. 300mm–5)—

8 (A) by redesignating paragraphs (5)  
9 through (11) and paragraphs (12) through (17)  
10 as paragraphs (6) through (12) and paragraphs  
11 (14) through (19), respectively;

12 (B) by inserting after paragraph (4) the  
13 following:

14 “(5) The term ‘Federal agency’ means an agen-  
15 cy, office, or other establishment in the executive,  
16 legislative, or judicial branch of the Federal Govern-  
17 ment.”; and

18 (C) by inserting after paragraph (12), as  
19 so redesignated, the following:

20 “(13) The term ‘uniformed services’ has the  
21 meaning given the term in section 101(a) of title 10,  
22 United States Code.”; and

23 (2) in section 3311(a) (42 U.S.C. 300mm–  
24 21(a))—

25 (A) in paragraph (2)(C)(i)—

1 (i) in subclause (I), by striking “; or”  
2 and inserting a semicolon;

3 (ii) in subclause (II), by striking “;  
4 and” and inserting a semicolon; and

5 (iii) by adding at the end the fol-  
6 lowing:

7 “(III) was an employee of the Depart-  
8 ment of Defense or any other Federal  
9 agency, worked during the period begin-  
10 ning on September 11, 2001, and ending  
11 on September 18, 2001, for a contractor of  
12 the Department of Defense or any other  
13 Federal agency, or was a member of a reg-  
14 ular or reserve component of the uni-  
15 formed services; and performed rescue, re-  
16 covery, demolition, debris cleanup, or other  
17 related services at the Pentagon site of the  
18 terrorist-related aircraft crash of Sep-  
19 tember 11, 2001, during the period begin-  
20 ning on September 11, 2001, and ending  
21 on the date on which the cleanup of the  
22 site was concluded, as determined by the  
23 WTC Program Administrator; or

24 “(IV) was an employee of the Depart-  
25 ment of Defense or any other Federal

1 agency, worked during the period begin-  
2 ning on September 11, 2001, and ending  
3 on September 18, 2001, for a contractor of  
4 the Department of Defense or any other  
5 Federal agency, or was a member of a reg-  
6 ular or reserve component of the uni-  
7 formed services; and performed rescue, re-  
8 covery, demolition, debris cleanup, or other  
9 related services at the Shanksville, Penn-  
10 sylvania, site of the terrorist-related air-  
11 craft crash of September 11, 2001, during  
12 the period beginning on September 11,  
13 2001, and ending on the date on which the  
14 cleanup of the site was concluded, as deter-  
15 mined by the WTC Program Adminis-  
16 trator; and”;

17 (B) in paragraph (4)(A)—

18 (i) by striking “(A) IN GENERAL.—  
19 The” and inserting the following:

20 “(A) LIMIT.—

21 “(i) IN GENERAL.—The”;

22 (ii) by inserting “or subclause (III) or  
23 (IV) of paragraph (2)(C)(i)” after “or  
24 (2)(A)(ii)”;

1 (iii) by adding at the end the fol-  
 2 lowing:

3 “(ii) CERTAIN RESPONDERS TO THE  
 4 SEPTEMBER 11 ATTACKS AT THE PEN-  
 5 TAGON AND SHANKSVILLE, PENNSYLVANIA.—The total number of individuals  
 6 who may be enrolled under paragraph  
 7 (3)(A)(ii) based on eligibility criteria de-  
 8 scribed in subclause (III) or (IV) of para-  
 9 graph (2)(C)(i) shall not exceed 500 at any  
 10 time.”.

12 **SEC. 3. FLEXIBILITY FOR CERTIFICATIONS UNDER THE**  
 13 **WORLD TRADE CENTER HEALTH PROGRAM.**

14 (a) IN GENERAL.—Section 3305(a) of the Public  
 15 Health Service Act (42 U.S.C. 300mm–4(a)) is amend-  
 16 ed—

17 (1) in paragraph (1)(A), by inserting “subject  
 18 to paragraph (6),” before “for”; and

19 (2) by adding at the end the following:

20 “(6) LICENSED HEALTH CARE PROVIDER  
 21 FLEXIBILITY.—

22 “(A) IN GENERAL.—For purposes of an  
 23 initial health evaluation described in paragraph  
 24 (1)(A) (including any such evaluation provided  
 25 under section 3321(b) or through the nation-

1 wide network under section 3313), such evalua-  
 2 tion may be conducted by a physician or any  
 3 other licensed health care provider in a category  
 4 of health care providers determined by the  
 5 WTC Program Administrator under subpara-  
 6 graph (B).

7 “(B) CATEGORIES OF LICENSED HEALTH  
 8 CARE PROVIDERS.—Not later than 180 days  
 9 after the date of enactment of the 9/11 Re-  
 10 sponder and Survivor Health Funding Correc-  
 11 tion Act of 2023, the WTC Program Adminis-  
 12 trator shall issue regulations for the categories  
 13 of licensed health care providers who, in addi-  
 14 tion to licensed physicians, may conduct evalua-  
 15 tions under subparagraph (A) and make deter-  
 16 minations under section 3312(b).”.

17 (b) FLEXIBILITY FOR WTC RESPONDERS.—Section  
 18 3312(b) of such Act (42 U.S.C. 300mm–22(b)) is amend-  
 19 ed—

20 (1) in paragraph (1), by striking “physician”  
 21 each place it appears and inserting “physician or  
 22 other licensed health care provider in a category de-  
 23 termined by the WTC Program Administrator under  
 24 section 3305(a)(6)(B)”;

25 (2) in paragraph (2)—

1 (A) in subparagraph (A)—

2 (i) in the matter preceding clause (i),  
3 by striking “physician” and inserting  
4 “physician or other licensed health care  
5 provider in a category determined by the  
6 WTC Program Administrator under sec-  
7 tion 3305(a)(6)(B)”;

8 (ii) in clause (i), by striking “physi-  
9 cian” and inserting “physician or other li-  
10 censed health care provider”; and

11 (iii) in clause (ii), by striking “such  
12 physician’s determination” and inserting  
13 “the determination of such physician or  
14 other licensed health care provider”; and

15 (B) in subparagraph (B)—

16 (i) in the matter preceding clause (i),  
17 by striking “physician determinations” and  
18 inserting “determinations by physicians or  
19 other licensed health care providers in cat-  
20 egories determined by the WTC Program  
21 Administrator under section  
22 3305(a)(6)(B)”;

23 (ii) in clause (i), by striking “physi-  
24 cian panel” and inserting “panel of physi-  
25 cians or other licensed health care pro-

1           viders in categories determined by the  
 2           WTC Program Administrator under sec-  
 3           tion 3305(a)(6)(B)”; and

4           (3) in paragraph (5), by striking “examining  
 5           physician” and inserting “examining physician or  
 6           other licensed health care provider in a category de-  
 7           termined by the WTC Program Administrator under  
 8           section 3305(a)(6)(B)”.

9 **SEC. 4. CRITERIA FOR CREDENTIALING HEALTH CARE**  
 10 **PROVIDERS PARTICIPATING IN THE NATION-**  
 11 **WIDE NETWORK.**

12       Title XXXIII of the Public Health Service Act (42  
 13 U.S.C. 300mm et seq.) is amended—

14           (1) in section 3305(a)(2) (42 U.S.C. 300mm–  
 15       4(a)(2))—

16           (A) in subparagraph (A)—

17           (i) by striking clause (iv); and

18           (ii) by redesignating clauses (v) and  
 19           (vi) as clauses (iv) and (v), respectively;

20           (B) by striking subparagraph (B); and

21           (C) by redesignating subparagraphs (C)  
 22       and (D) as subparagraphs (B) and (C), respec-  
 23       tively; and



1           (2) in section 3313(b)(1) (42 U.S.C. 300mm–  
2           23(b)(1)), by striking “Data Centers” and inserting  
3           “WTC Program Administrator”.

4 **SEC. 5. CLARIFYING CALCULATION OF ENROLLMENT.**

5           (a) RESPONDERS.—Section 3311(a) of such Act (42  
6 U.S.C. 300mm–21(a)) is amended by adding at the end  
7 the following:

8           “(6) DECEASED WTC RESPONDERS.—An indi-  
9           vidual known to the WTC Program Administrator to  
10          be deceased shall not be included in any count of en-  
11          rollees under this subsection or section 3351.”.

12          (b) SURVIVORS.—Section 3321(a) of such Act (42  
13 U.S.C. 300mm–31(a)) is amended by adding at the end  
14 the following:

15          “(5) DECEASED WTC SURVIVORS.—An indi-  
16          vidual known to the WTC Program Administrator to  
17          be deceased shall not be included in any count of  
18          certified-eligible survivors under this section or in  
19          any count of enrollees under section 3351.”.

20 **SEC. 6. TIME PERIOD FOR ADDING HEALTH CONDITIONS**  
21 **TO LIST FOR WTC RESPONDERS.**

22          Section 3312(a)(6) of the Public Health Service Act  
23 (42 U.S.C. 300mm–22(a)(6)) is amended—

24                 (1) in subparagraph (B), by striking “90” and  
25                 inserting “180”; and

1           (2) in subparagraph (C), in the second sen-  
2           tence, by striking “90” and inserting “180”.

3 **SEC. 7. FUNDING FOR THE WORLD TRADE CENTER HEALTH**  
4 **PROGRAM.**

5           (a) FEDERAL FUNDING.—Section 3351 of the Public  
6 Health Service Act (42 U.S.C. 300mm–61) is amended—

7           (1) in subsection (a)—

8           (A) in paragraph (2)(A)—

9           (i) in clause (x), by striking “and”;

10           (ii) in clause (xi)—

11           (I) by striking “subsequent fiscal  
12           year through fiscal year 2090” and  
13           inserting “of fiscal years 2026  
14           through 2033”; and

15           (II) by striking “plus” and in-  
16           serting “and”; and

17           (iii) by adding at the end the fol-  
18           lowing:

19           “(xii) for each of fiscal years 2034  
20           through 2090—

21           “(I) the amount determined  
22           under this subparagraph for the pre-  
23           vious fiscal year (plus the sum of any  
24           amount expended in the previous fis-  
25           cal year from the World Trade Center

1 Health Program Special Fund estab-  
2 lished under section 3353 or the  
3 World Trade Center Health Program  
4 Fund for Certain WTC Responders at  
5 the Pentagon and Shanksville, Penn-  
6 sylvania established under section  
7 3354 and any amount expended from  
8 the World Trade Center Health Pro-  
9 gram Fund established under this sec-  
10 tion in the previous fiscal year that  
11 was carried over from any fiscal year  
12 prior to the previous fiscal year in-  
13 cluding as carried over pursuant to a  
14 deposit into such Fund under para-  
15 graph (6)) multiplied by 1.05; multi-  
16 plied by

17 “(II) the ratio of—

18 “(aa) the total number of  
19 individuals enrolled in the WTC  
20 Program on July 1 of such pre-  
21 vious fiscal year; to

22 “(bb) the total number of  
23 individuals so enrolled on July 1  
24 of the fiscal year prior to such  
25 previous fiscal year; plus”; and

1 (B) by adding at the end the following:

2 “(6) REMAINING AMOUNTS FROM SPECIAL  
3 FUND AND PENTAGON/SHANKSVILLE FUND.—Any  
4 amounts that remain available, on September 30,  
5 2033, in the World Trade Center Health Program  
6 Special Fund under section 3353 or the World  
7 Trade Center Health Program Fund for Certain  
8 WTC Responders at the Pentagon and Shanksville,  
9 Pennsylvania under section 3354 shall be deposited  
10 into the Fund.”; and

11 (2) in subsection (c)—

12 (A) in paragraph (4)—

13 (i) by amending subparagraph (A) to  
14 read as follows:

15 “(A) for fiscal year 2023, the amount de-  
16 termined for such fiscal year under this para-  
17 graph as in effect on the day before the date of  
18 enactment of the 9/11 Responder and Survivor  
19 Health Funding Correction Act of 2023;” and

20 (ii) in subparagraph (B), by striking

21 “2017, \$15,000,000” and inserting “2024,  
22 \$20,000,000”; and

23 (B) in paragraph (5)—

24 (i) by amending subparagraph (A) to  
25 read as follows:

1           “(A) for fiscal year 2023, the amount de-  
 2           termined for such fiscal year under this para-  
 3           graph as in effect on the day before the date of  
 4           enactment of the 9/11 Responder and Survivor  
 5           Health Funding Correction Act of 2023;”;

6                   (ii) by redesignating subparagraph  
 7           (B) as subparagraph (C); and

8                   (iii) by inserting after subparagraph  
 9           (A) the following:

10           “(B) for fiscal year 2024, the greater of—

11                   “(i) the amount determined for such  
 12           fiscal year under this paragraph as in ef-  
 13           fect on the day before the date of enact-  
 14           ment of the 9/11 Responder and Survivor  
 15           Health Funding Correction Act of 2023; or

16                   “(ii) \$20,000,000; and”.

17           (b) **ADDITIONAL FUNDING FOR THE WORLD TRADE**  
 18           **CENTER HEALTH PROGRAM.—**

19                   (1) **IN GENERAL.—**Title XXXIII of the Public  
 20           Health Service Act (42 U.S.C. 300mm et seq.) is  
 21           amended by adding at the end the following:

22           **“SEC. 3353. SPECIAL FUND.**

23                   “(a) **IN GENERAL.—**There is established a fund to  
 24           be known as the World Trade Center Health Program  
 25           Special Fund (referred to in this section as the ‘Special

1 Fund’), consisting of amounts deposited into the Special  
2 Fund under subsection (b).

3 “(b) AMOUNT.—Out of any money in the Treasury  
4 not otherwise appropriated, there is appropriated for fiscal  
5 year 2024 \$1,784,358,336 for deposit into the Special  
6 Fund, which amounts shall remain available in such Fund  
7 through fiscal year 2033.

8 “(c) USES OF FUNDS.—Amounts deposited into the  
9 Special Fund under subsection (b) shall be available, with-  
10 out further appropriation and without regard to any  
11 spending limitation under section 3351(c), to the WTC  
12 Program Administrator as needed at the discretion of such  
13 Administrator, for carrying out any provision in this title  
14 (including sections 3303 and 3341(c)).

15 “(d) REMAINING AMOUNTS.—Any amounts that re-  
16 main in the Special Fund on September 30, 2033, shall  
17 be deposited into the World Trade Center Health Program  
18 Fund in accordance with section 3351(a)(6) and remain  
19 available in accordance with section 3351(a)(5).

20 **“SEC. 3354. PENTAGON/SHANKSVILLE FUND.**

21 “(a) IN GENERAL.—There is established a fund to  
22 be known as the World Trade Center Health Program  
23 Fund for Certain WTC Responders at the Pentagon and  
24 Shanksville, Pennsylvania (referred to in this section as  
25 the ‘Pentagon/Shanksville Fund’), consisting of amounts

1 deposited into the Pentagon/Shanksville Fund under sub-  
2 section (b).

3 “(b) AMOUNT.—Out of any money in the Treasury  
4 not otherwise appropriated, there is appropriated for fiscal  
5 year 2024 \$257,000,000 for deposit into the Pentagon/  
6 Shanksville Fund, which amounts shall remain available  
7 in such Fund through fiscal year 2033.

8 “(c) USES OF FUNDS.—

9 “(1) IN GENERAL.—Amounts deposited into the  
10 Pentagon/Shanksville Fund under subsection (b)  
11 shall be available, without further appropriation and  
12 without regard to any spending limitation under sec-  
13 tion 3351(c), to the WTC Program Administrator  
14 for the purpose of carrying out section 3312 with re-  
15 gard to WTC responders enrolled in the WTC Pro-  
16 gram based on eligibility criteria described in sub-  
17 clause (III) or (IV) of section 3311(a)(2)(C)(i).

18 “(2) LIMITATION ON OTHER FUNDING.—Not-  
19 withstanding sections 3331(a), 3351(b)(1), 3352(c),  
20 and 3353(c), and any other provision in this title,  
21 for the period of fiscal years 2024 through 2033, no  
22 amounts made available under this title other than  
23 those amounts appropriated under subsection (b)  
24 may be available for the purpose described in para-  
25 graph (1).

1       “(d) REMAINING AMOUNTS.—Any amounts that re-  
2 main in the Pentagon/Shanksville Fund on September 30,  
3 2033, shall be deposited into the World Trade Center  
4 Health Program Fund in accordance with section  
5 3351(a)(6) and remain available in accordance with sec-  
6 tion 3351(a)(5).”.

7       (c) CONFORMING AMENDMENTS.—Title XXXIII of  
8 the Public Health Service Act (42 U.S.C. 300mm et seq.)  
9 is amended—

10           (1) in section 3311(a)(4)(B)(i)(II) (42 U.S.C.  
11 300mm–21(a)(4)(B)(i)(II)), by striking “sections  
12 3351 and 3352” and inserting “this title”;

13           (2) in section 3321(a)(3)(B)(i)(II) (42 U.S.C.  
14 300mm–31(a)(3)(B)(i)(II)), by striking “sections  
15 3351 and 3352” and inserting “this title”;

16           (3) in section 3331 (42 U.S.C. 300mm–41)—

17               (A) in subsection (a), by striking “the  
18 World Trade Center Health Program Fund and  
19 the World Trade Center Health Program Sup-  
20 plemental Fund” and inserting “(as applicable)  
21 the Funds established under sections 3351,  
22 3352, 3353, and 3354”; and

23               (B) in subsection (d)—

24                   (i) in paragraph (1)(A), by inserting  
25 “or the World Trade Center Health Pro-



1           gram Special Fund under section 3353”  
2           after “section 3351”;

3           (ii) in paragraph (1)(B), by inserting  
4           “or the World Trade Center Health Pro-  
5           gram Fund for Certain WTC Responders  
6           at the Pentagon and Shanksville, Pennsyl-  
7           vania under section 3354” after “section  
8           3352”; and

9           (iii) in paragraph (2), in the flush text  
10          following subparagraph (C), by inserting  
11          “or the World Trade Center Health Pro-  
12          gram Fund for Certain WTC Responders  
13          at the Pentagon and Shanksville, Pennsyl-  
14          vania under section 3354” after “section  
15          3352”; and

16          (4) in section 3351(b) (42 U.S.C. 300mm-  
17          61(b))—

18           (A) in paragraph (1), by striking “sub-  
19           section (a)(2)” and inserting “paragraph (2) or  
20           (6) of subsection (a)”;

21           (B) in paragraph (2), by inserting “, the  
22           World Trade Center Health Program Special  
23           Fund under section 3353, or the World Trade  
24           Center Health Program Fund for Certain WTC  
25           Responders at the Pentagon and Shanksville,

1 Pennsylvania under section 3354” before the  
2 period at the end; and

3 (C) in paragraph (3), by inserting “, the  
4 World Trade Center Health Program Special  
5 Fund under section 3353, or the World Trade  
6 Center Health Program Fund for Certain WTC  
7 Responders at the Pentagon and Shanksville,  
8 Pennsylvania under section 3354” before the  
9 period at the end.

○