

At a Glance

H.R. 1327, Never Forget the Heroes: Permanent Authorization of the September 11th Victim Compensation Fund Act

As ordered reported by the House Committee on the Judiciary on June 12, 2019

By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	6,785	10,180
Revenues	0	0	0
Deficit Effect	0	6,785	10,180
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	> \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would

- Appropriate such sums as are necessary for the September 11th Victim Compensation Fund (VCF) to pay claims to eligible victims through fiscal year 2090
- Require the VCF to fully compensate claimants who have received reduced awards in the past because of declining balances in the fund

Estimated budgetary effects would primarily stem from

- Payments to currently eligible claimants and to those found eligible in the future
- Costs to administer the VCF

Areas of significant uncertainty include

- Identifying incidence rates for adverse health conditions, particularly cancer, in the eligible population
- Estimating the number of people who will file successful claims

Detailed estimate begins on the next page.



Bill Summary

H.R. 1327 would authorize the appropriation of whatever amounts are necessary for the September 11th Victim Compensation Fund to pay claims to eligible people through fiscal year 2090. The bill also would require the VCF to fully compensate claimants who have received reduced awards in the past because of declining fund balances.

Estimated Federal Cost

The estimated budgetary effect of H.R. 1327 is shown in Table 1. The costs of the legislation fall within budget function 750 (administration of justice).

Table 1.
Estimated Budgetary Effects of H.R. 1327

	By Fiscal Year, Millions of Dollars											2019- 2024	2019- 2029
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029		
Increases in Direct Spending													
Cost of Claims Filed Before Enactment													
Estimated Budget Authority	0	600	940	1,370	1,260	0	0	0	0	0	0	4,170	4,170
Estimated Outlays	0	600	940	1,370	1,260	0	0	0	0	0	0	4,170	4,170
Cost of Claims Filed After Enactment													
Estimated Budget Authority	0	350	440	570	590	600	610	620	630	670	700	2,550	5,780
Estimated Outlays	0	350	440	570	590	600	610	620	630	670	700	2,550	5,780
Administrative Costs													
Estimated Budget Authority	0	0	7	7	18	33	33	33	33	33	33	65	230
Estimated Outlays	0	0	7	7	18	33	33	33	33	33	33	65	230
Total													
Estimated Budget Authority	0	950	1,387	1,947	1,868	633	643	653	663	703	733	6,785	10,180
Estimated Outlays	0	950	1,387	1,947	1,868	633	643	653	663	703	733	6,785	10,180

Background

The Congress created the September 11th Victim Compensation Fund in 2001 to compensate people (or their heirs) who were injured or killed in the terrorist attacks of September 11, 2001. The fund compensates eligible claimants or their surviving personal representatives (often, family members) for their economic and noneconomic losses.¹

1. Economic losses consist of lost earnings or benefits related to employment; personal losses of business or employment opportunities; losses due to death; burial costs; and medical expenses that a claimant has already paid. Noneconomic losses consist of physical and emotional pain, physical impairment, disfigurement, loss of enjoyment of life, and other losses except psychological or mental health conditions, which are not covered.



In 2004, after paying \$7.0 billion in claims, the VCF closed. In 2011, the James Zadroga 9/11 Health and Compensation Act of 2010, appropriated \$2.775 billion to the VCF for five years to pay new claims. On December 18, 2015, the Congress extended the VCF's authority to accept claims for five more years and appropriated an additional \$4.6 billion.

Under current law, payments to claimants and the administrative costs of the VCF are capped at \$7.375 billion, and people have until December 18, 2020, to file claims.

After that date, CBO expects, the VCF will spend its remaining balances—which totaled about \$3.2 billion at the beginning of fiscal year 2019—to pay eligible claims. The fund is expected to cease operations near the beginning of fiscal year 2023.

If balances are insufficient to pay the full amounts awarded, claimants will receive payments in proportion to the fund's balance. Beginning in February 2019, the VCF's special master began to reduce some award payments because the fund's administrators anticipated that the VCF would not have sufficient funds to pay all valid claims. In June 2019, the special master reported that the program had awarded \$5.174 billion in compensation since 2011, and that the fund would need \$4.616 billion above the current appropriation to pay all remaining claims including those expected to be filed before the statutory deadline.²

Claims Process

Under the Zadroga Act, prospective claimants must register with the VCF to be eligible to file a claim or to preserve their right to file a claim in the future. Claimants are considered to have met the registration deadline if they submit their application within two years of the date on which they knew (or reasonably should have known) the following had occurred:

- They suffered physical harm as a result of the attacks on September 11, or as a result of hazardous exposure during the rescue period or during debris removal;
- They have received a diagnosis by a medical professional that is approved by the VCF as a qualifying physical injury or health condition;³ and

2. See the testimony of Rupa Bhattacharyya, Special Master, September 11th Victim Compensation Fund, before the Subcommittee on the Constitution, Civil Rights and Civil Liberties of the House Committee on the Judiciary (June 11, 2019), <https://go.usa.gov/xyrzh> (PDF, 288 KB).

3. Qualifying health conditions and physical injuries under the Zadroga Act and VCF program regulations include various types of cancer, aerodigestive disorders, musculoskeletal disorders, and acute traumatic injury. The VCF does not pay claims for post-traumatic stress disorder or psychological or mental health conditions. See Eligibility Definitions and Requirements, 28 C.F.R. §104.2 (2016), <http://tinyurl.com/y4t5oup4>.



- They have a determination by a government entity, such as the World Trade Center (WTC) Health Program or a state or local government, that their injury or condition was caused by exposure at the attack sites or other locations during specified periods.⁴

Most of the people registered with the VCF have been diagnosed with an eligible condition confirmed by the WTC Health Program, which is administered by the Centers for Disease Control and Prevention (CDC).⁵

Claimants must meet statutory requirements and be found eligible by the VCF to obtain compensation. Award amounts for noneconomic losses are based on the type and severity of the victim's condition and the degree to which those conditions affect the victim's ability to maintain normal activities and enjoyment of daily life. Almost all successful claimants have received compensation for noneconomic losses. About one-fifth of successful claimants also have received compensation for economic losses, including loss of wages and employer-provided benefits. Their claims are calculated based on occupational disability and are offset by any other payments they receive (such as disability benefits).

Claims Data

Since the VCF was reopened in 2011, the program has paid awards to about 22,400 claimants at a cost of about \$5.2 billion (see Table 2). Thirty-seven percent of those awards were paid to people with cancer and 63 percent were paid to people who had noncancerous conditions alone. From January 2017 to the present, the share of awards paid to claimants with cancer has risen to 45 percent. Since 2017, the average amount of awards for both cancerous and noncancerous conditions also increased, in large part because the size of revisions to awards increased over that period.

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4. Under the Zadroga Act and VCF program regulations, claimants must document their physical presence at an attack site or other specified location during a specific period and for a minimum duration. For example, people who participated in rescue and cleanup in Lower Manhattan between September 11 and September 30, 2001, must document their presence for at least 24 hours at that location. See Filing for Compensation, 28 C.F.R. §104.22 (2016), <http://tinyurl.com/y5ok38sy>.
 5. The WTC Health Program provides treatment and monitoring to eligible first responders and survivors. Participation is not a prerequisite for registering with the VCF.

**Table 2.**
CBO's Estimate of Claims and Awards Paid From the Victim Compensation Fund Since 2011

Health Condition	Number of Claims	Percentage of Claims	Average Award (Dollars)	Total Cost of Claims (Millions of dollars)
Claims Paid From 2011 Through May 2019				
Cancer	8,310	37	351,000	2,920
Noncancerous	<u>14,120</u>	<u>63</u>	160,000	<u>2,260</u>
Total	22,430	100	n.a.	5,180
Subset of Claims Paid From January 2017 Through May 2019^a				
Cancer	4,960	45	413,000	2,050
Noncancerous	<u>5,980</u>	<u>55</u>	213,000	<u>1,270</u>
Total	10,940	100	n.a.	3,320

n.a. = not applicable.

a. Average award amounts and the total costs of claims combine compensation received from initial awards plus compensation received later in revised awards. As a result, the \$3,320 million estimated to have been spent on claims from January 2017 through May 2019 includes some compensation from initial awards that was spent by the Victim Compensation Fund before 2017.

From the time the VCF reopened in 2011 through May 2019, more than 47,000 claims for compensation have been filed; those claims have the following status:⁶

- About 22,400 received compensation,
- About 17,600 are under review, and
- About 7,200 either have been determined to be ineligible or cannot be processed because of problems with documentation.

Over that period, nearly 6,000 claimants qualified for additional compensation—revisions of original awards—either because claimants successfully appealed a denial or because they filed an amendment seeking a revised award determination on the basis of new information or because of a newly diagnosed health condition.

Basis of Estimate

For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2019.

CBO's estimate of payments under H.R. 1327 is based on an analysis of the number, amounts, and type of awards the fund has paid in recent years; estimates of the incidence rates of qualifying health conditions—cancerous and noncancerous—in the eligible population; and estimates of the number of people who would successfully file claims.

6. See September 11th Victim Compensation Fund, "VCF Program Statistics (As of May 31, 2019)" (accessed July 3, 2019), <https://go.usa.gov/xygBh> (PDF, 426 KB).



As shown in Table 2, the VCF has paid awards to about 22,400 claimants over the history of the program. CBO's estimate of the costs of H.R. 1327 is based on an analysis of the costs to compensate three groups of claims:

- 19,000 additional claims, filed before October 1, 2019, that CBO estimates will not yet have been paid by the time this legislation is enacted;
- Several hundred claims that have already been paid at reduced compensation levels because of declining fund balances; and
- 18,100 new claims that CBO estimates will be filed and paid after October 1, 2019.

CBO estimates that all of the 19,000 claims filed by October 1, 2019 will be paid by 2023 (see Table 3). Some payments under the current program have been reduced to accommodate the fund's declining balances.

Table 3.
CBO's Estimate of Amounts Required to Fully Pay Claims Filed With the Victim Compensation Fund Before October 2019

Health Condition	Number of Claims	Percentage of Claims	Average Award (Dollars)	Total Cost of Claims (Millions of dollars)
Estimated Claims				
Cancer	8,550	45	415,000	3,550
Noncancerous	<u>10,450</u>	<u>55</u>	214,000	<u>2,240</u>
Total	19,000	100	n.a.	5,790
Estimated Total Cost to Pay Claims				
			Estimated Total Cost to Fully Pay Claims Filed Before October 2019	5,790
			Less Estimated Unobligated Balances ^a	<u>1,620</u>
			Estimated Net Additional Cost Under H.R. 1327 ^b	4,170

VCF = Victim Compensation Fund; n.a. = not applicable

- a. The unobligated balances is CBO's estimate of amounts already appropriated to the VCF that will be available to pay claims at the end of September 2019.
- b. The net additional cost under the bill includes about \$250 million in compensation that would be paid, retroactively, to claimants who received awards at reduced levels. Starting in late February 2019, the VCF began reducing the value of some claims in anticipation of the VCF running out of funding.

Estimated Cost to Fully Pay Claims Filed Before Fiscal Year 2020

The 19,000 claims that CBO estimates will have been filed by the beginning of fiscal year 2020 and that will eventually receive awards include more than 15,000 claims currently in review that CBO estimates will be approved, 2,800 claims that have documentation problems



that CBO estimates eventually will be resolved, and 1,200 eligible claims that CBO estimates will be filed by the time the legislation is enacted.

The amount of an award depends on whether the claim is for:

- A cancerous or noncancerous condition,
- Injury or death, and
- Economic loss, noneconomic loss, or both.

Using information provided by the VCF about the number and amounts of awards paid over the 2011-2019 period, CBO estimates that all 19,000 claimants will receive awards of varying size over the 2020-2023 period. The largest determinant of differences in the size of awards is whether the compensation is for cancer or for a noncancerous illness.⁷ The amount also depends on whether a claimant would be eligible for additional compensation for economic losses and whether the claim is for an individual who has died.

CBO's estimates of average awards for each type of claim combine compensation from initial awards with any additional compensation provided in revisions to those awards. CBO estimated the distribution and average amount of each type of claim on the basis of data provided by the VCF for 2017 to the present. The estimate of the costs of full compensation for all claims filed before the end of fiscal year 2019 is summarized in Table 3.

Of the 19,000 claims, CBO estimates that 45 percent will be for cancer and 55 percent will be for noncancerous conditions and that compensation would be provided for noneconomic losses alone in 76 percent of those cases. Six percent of the claims would be for victims who have died, CBO estimates.

In total, CBO estimates, full compensation for those 19,000 claims would cost about \$5.8 billion. Based on the program's activity in recent years, CBO estimates that the VCF would process 4,000 to 5,000 claims annually and would close out that set of claims in 2023.

By October 2019, CBO estimates, VCF will carry unobligated balances of \$1.6 billion to cover claims. Under current law, those balances will be spent over the 2020-2023 period to pay claims filed before October 2019—with some awards reduced because of insufficient funding. As a result, CBO estimates, compensating all 19,000 claimants for the full value of

7. CBO estimates that the average cancer award for claims filed before enactment (as shown in Table 3) and for claims that would be filed over the 2020-2029 period (as shown in Table 4) would be roughly double the average noncancerous award. Much of the difference is attributable to VCF regulations, which authorize the program to award up to \$250,000 in noneconomic damages to claimants with cancer and up to \$90,000 to claimants with noncancerous illnesses. See Determination of Presumed Economic Losses for Injured Claimants, 28 C.F.R. §104.46 (2016), <http://tinyurl.com/y5tlu4lb>.



their estimated awards would cost an additional \$4.2 billion.⁸ That additional amount would be attributable to H.R. 1327.

Estimate of Claims Filed and Paid After October 1, 2019

The second component of CBO’s analysis focused on the population that CBO estimates will develop qualifying health conditions—and seek compensation—*after* enactment of H.R. 1327. CBO estimates that future claims—those filed and paid after enactment—would total roughly 18,000 over the 2020-2029 period (see Table 4).

Table 4.
CBO’s Estimate of the Future Cost of Claims Filed With and Paid by the Victim Compensation Fund After October 1, 2019

Health Condition	Number of Claims	Percentage of Claims	Average Award (Dollars)	Total Cost of Claims (Millions of dollars)
Cancer	11,470	63	395,000	4,530
Noncancerous	<u>6,600</u>	<u>37</u>	190,000	<u>1,250</u>
Total	18,070	100	n.a.	5,780

n.a. = not applicable.

Affected Population and Mortality. According to New York City’s World Trade Center Health Registry, more than 410,000 people, including 90,000 first responders, were directly exposed to environmental contaminants in the aftermath of the September 11 attacks.⁹ To date, about 95,000 people—80 percent of them first responders—participate in the WTC Health Program.¹⁰ About half of those participants have been treated for health conditions; others who are at risk of developing illnesses, particularly cancer, are being monitored by the program.

8. The \$4.2 billion includes \$250 million in compensation that would be paid, retroactively, to claimants who received awards at reduced levels. Starting in late February 2019, the VCF began reducing the value of some claims in anticipation of the VCF running out of funding. Using information provided by the VCF about the number of claims that have been subject to reductions and the value of those reductions so far, CBO estimates that claimants subject to reductions, in the aggregate, will be paid about \$250 million less than the full value of their awards through the end of fiscal year 2019. H.R. 1327 would make that estimated amount available to fully compensate those claimants.

9. For more information, see NYC 9/11 Health, “World Trade Center Health Registry” (accessed July 3, 2019), <https://go.usa.gov/xyTxX>.

10. Currently, about 75,000 first responders and 20,000 other survivors are enrolled in the WTC Health Program. About 3 percent of those enrollees have psychological ailments only, which do not qualify for compensation from the VCF. Over the history of the WTC Health Program, 2,355 enrollees have died.



To estimate the number of people who will develop health conditions in future years and would seek compensation from the VCF under H.R. 1327, CBO first reduced the eligible population of 410,000 exposed people, to account for the following information:

- About 67,000 people that CBO estimates have died since 2001,
- Roughly 22,500 people who already have received full compensation from the VCF, and
- About 19,000 claimants expected to file before October 2019 who already are accounted for elsewhere in this cost estimate.

For the remaining potential claimants—estimated to total about 300,000 people in 2020—CBO used CDC’s mortality data to remove from that group the estimated number of deaths from all possible causes over the 2020-2029 period.

Cancer Incidence. CBO used CDC’s current data on incidence rates for cancer in the general population to estimate the number of people in the affected population who can be expected to develop cancer each year. CBO used rates that account for differences in the incidence of cancer by sex, age, race, and ethnicity in a manner that is representative of the reported demographic characteristics of the eligible population.

CBO also reviewed several recent studies on cancer incidence in the population directly exposed to carcinogens as a result of the attacks. Those studies indicate that the incidence of several types of cancer—particularly prostate and skin cancers—is elevated in the exposed population. However, the magnitude of the increase varies widely by the type of cancer.¹¹ Demonstrated increases in cancer incidence range from 5 percent to 20 percent higher among people directly exposed to carcinogens at the attack sites compared with rates in the general population. Most of the published research has focused on first responders and recovery workers, who experienced greater exposures to carcinogens than other survivors did.¹²

On that basis, CBO estimates that cancer incidence would be about 11 percent higher, on average, among first responders and recovery workers and about 6 percent higher among

11. See Eli J. Kleinman and others, “NYPD Cancer Incidence Rates 1995-2014 Encompassing the Entire World Trade Center Cohort,” *Journal of Occupational and Environmental Medicine*, vol. 57, no. 10, pp. e101-e113 (October 2015), <https://doi.org/10.1097/JOM.0000000000000542>.

12. See Ankura Singh and others, “Estimation of Future Cancer Burden Among Rescue and Recovery Workers Exposed to the World Trade Center Disaster,” *Journal of the American Medical Association (JAMA) Oncology*, vol. 4, no. 6 (June 2018), pp. 828-831, <https://doi.org/10.1001/jamaoncol.2018.0504>; Jiehui Li and others, “Ten-Year Cancer Incidence in Rescue/Recovery Workers and Civilians Exposed to the September 11, 2001 Terrorist Attacks on the World Trade Center,” *American Journal of Industrial Medicine*, vol. 59, no. 9 (September 2016), pp. 709-721, <https://doi.org/10.1002/ajim.22638>; and Samara Solan and others, “Cancer Incidence in World Trade Center Rescue and Recovery Workers, 2001-2008,” *Environmental Health Perspectives*, vol. 121, no. 6 (June 2013), pp. 699-704, <https://doi.org/10.1289/ehp.1205894>.



other eligible survivors, relative to the general population. (The estimated incidence of cancer for the combined populations of responders and survivors, using a weighted average, is about 8 percent higher.)

About a third of the claims paid by the VCF since it reopened in 2011 have involved cancer diagnoses; however, that percentage is increasing. Over the past year, for example, 50 percent of claims included compensation for cancer. Using information from the WTC Health Program and the VCF, CBO estimates that both the number of cancer claims and the share of total claims that involve cancer relative to noncancerous conditions will continue to increase, driven principally by increases in cancer incidence related to age and to the amount of time elapsed since exposure.¹³

Over the VCF's history, about 60 percent of all awards for cancer claims have been made to first responders, but in the past several years the share of new cancer claims from other survivors—who constitute the bulk of the remaining exposed population—has risen to 50 percent. CBO expects that, over the next 10 years, the share of cancer claims from those survivors will continue to rise; correspondingly, CBO's projection of future cancer rates is weighted more heavily toward its estimate for cancer incidence in that group. Over the 2020-2029 period, CBO expects that 31,000 will develop cancer out of the remaining population of about 265,000 in 2029.

Incidence of Noncancerous Illnesses. Using data from the WTC Health Program about the number of people who have been newly certified with illnesses since 2015, CBO estimates that about 19,000 people out of the remaining population can be expected to develop noncancerous illnesses over the next 10 years. In producing that estimate, CBO accounted for trends in the ratio of cancer to noncancerous claims in recent years, which show that the share of noncancerous claims is declining. The WTC Health Program and other observers have noted that noncancerous conditions are more likely to be identified and treated earlier because noncancerous symptoms generally present sooner than cancer symptoms do. Accordingly, CBO estimates that the number of new noncancerous illnesses will decrease gradually over time. To date, the WTC Health Program has certified more than 40,000 people with noncancerous illnesses (mostly aerodigestive disorders, which affect both the respiratory and the digestive tracts). The VCF has paid claims to more than 14,000 people for noncancerous conditions alone.

13. CBO estimates that cancer claims will grow from about 50 percent of new claims in 2020 to over 80 percent by 2029 because noncancerous conditions are more likely to become evident sooner—in years closer to the terrorist attacks—and victims are more likely to be treated earlier. Moreover, because many types of cancer have long latencies—mesothelioma, for example, has an average latency of more than 30 years—the incidence of those cancers will increase as those who were exposed grow older. CBO also estimates that claims for deceased victims will grow from about 6 percent of new claims in 2020 to 18 percent by 2029 because of the increase in mortality as the affected population ages and as cancer incidence rises. Since 2011, over 90 percent of awards paid to deceased claimants have involved cancer. CBO estimates that share will continue to increase over the 2020-2029 period.



Filing a Claim With the Victim Compensation Fund. After estimating the number of people in the exposed population who will develop eligible health conditions, CBO estimated how many in that group would enroll in the WTC Health Program and receive certification that their conditions are related to the September 11, 2001, terrorist attacks. Although enrollment in the WTC Health Program is not a prerequisite for filing a claim with the VCF, enrollment in that program is the primary predictor of who will file a VCF claim. Over 85 percent of VCF registrants have certified their conditions through that program and over 90 percent of those enrollees have registered with the VCF.

Currently, about 95,000 people participate in the WTC Health Program. To arrive at an estimate of the share who will develop health conditions and enroll in the program, CBO estimated the proportion of the eligible population that may have developed health conditions since 2001 and compared that information with the number of enrollees with certified conditions. Since the WTC Health Program began in 2011, CBO estimates, roughly two-thirds of those who have developed conditions have received certification—although significant uncertainty surrounds that estimate.

If two-thirds of the people who develop eligible illnesses go on to enroll, CBO anticipates that participation in the WTC Health Program would grow by an average of 3,200 members (with certified health conditions) annually over the next decade. That pace is consistent with growth over the past five years.

Finally, to estimate how many WTC Health Program members would submit VCF claims and receive awards, CBO used data from the VCF's February 2019 annual report about the stages of claim-filing activity over the program's history.¹⁴ CBO estimates that, over the 2020-2029 period, nearly 33,000 people will be certified by the WTC Health Program with eligible health conditions, and that about 18,100 within that group—55 percent—would file claims and receive awards from the VCF.¹⁵ Of those claims, CBO estimates, 63 percent will be for cancer and 37 percent will be for noncancerous conditions alone. On average, 1,800 claims would be approved annually and the number of awards would gradually increase over the next decade, driven primarily by rising rates of cancer and by higher approval rates for filed claims.

14. See September 11th Victim Compensation Fund, *Seventh Annual Status Report and Third Annual Reassessment of Policies and Procedures* (February 2019), <https://go.usa.gov/xygNY> (PDF, 555 KB).

15. That estimate reflects data reported by the VCF about the percentage of WTC Health Program enrollees who register with the VCF (90 percent), the percentage of VCF registrants who file claims (57 percent), and the percentage of filed claims that receive awards (75 percent). CBO estimates that, at each stage, the rate of advancement to the next would rise gradually over the ensuing 10 years as a result of greater awareness among potential claimants about the opportunity to file a claim, increases in the number and severity of illnesses that compel people to seek compensation, and a gradual resolution of documentation problems that impede award approval.



Award Payments. To estimate future awards from the VCF, CBO used data on the number and average amounts of awards for different types of claims over the program's history.¹⁶ CBO estimated amounts, on average, since 2017 (as shown in Table 2) and in most cases made an upward adjustment for each type of award over the 2020-2029 period to account for trends observed since 2011.¹⁷ CBO estimates that the average amount for most types would increase by about 0.5 percent annually.

In total, CBO estimates, under H.R. 1327, the VCF would pay claims totaling \$5.8 billion over the 2020-2029 period, to the 18,100 claimants who file after the date of enactment (see Table 4).

Administrative Costs. Under current law, the VCF is authorized to spend whatever amounts are necessary to carry out the program. Because the legislation would extend the period of the operation through fiscal year 2090, CBO estimates that H.R. 1327 would increase direct spending to cover continued administrative costs.

In fiscal year 2018, the VCF spent \$28 million to compensate 172 employees, maintain the program's software system, and provide contractor support. Because of a surge in claims late in 2018 and early in 2019, the program is hiring 10 additional employees to process the backlog.

Under H.R. 1327, CBO expects, the VCF will operate with about 180 employees for the next several years as the program processes a significant backlog of claims. Its administrative costs are estimated to range from \$30 million to \$33 million each year.

Uncertainty

CBO's cost estimate for H.R. 1327 reflects considerable uncertainty in several areas:

- Identifying the number of people affected by the terrorist attacks on September 11, 2001, and the number of people that will seek treatment and compensation for injury or death;
- Comparing incidence rates in the exposed and unexposed populations for adverse health conditions, especially cancer; and
- Estimating both the number of people who ultimately will be approved for compensation and the amount of their awards.

16. In addition to accounting for differences between compensation for cancer and noncancerous conditions, CBO's analysis accounted for differences in the size of awards for economic and noneconomic compensation and awards for deceased and living claimants.

17. Notably, CBO estimates that awards for economic losses will decrease from 24 percent of new claims in 2020 to 20 percent in 2029 as claimants age and leave the workforce, reducing their earnings and benefits. As a result, CBO estimates, on average, cancerous and noncancerous awards will be lower over the 2020-2029 period than for earlier claims because a declining share of awards will include compensation for economic losses.



Filing a Claim With the Victim Compensation Fund. One difficulty is projecting the precise rate at which affected people will seek treatment from or be monitored by the WTC Health Program. CBO expects that many people who were harmed will instead seek treatment from other providers or forgo treatment of related illnesses and conditions.

Enrollment in the WTC Health Program is not a prerequisite for filing a claim with the VCF, but more than 85 percent of VCF registrants have received certification for their conditions from that program; participation in the WTC Health Program is therefore the primary predictor of VCF claim-filing activity.

If 95 percent of the people who develop health conditions participate in the program, compared with the two-thirds (66 percent) assumed in this estimate, the cost of the legislation would increase by \$2.6 billion over the 2020-2029 period. Conversely, if one-third (33 percent) of that group participates, the legislation's costs would be \$2.8 billion smaller over that period.

Cancer Incidence. It is not possible to project the degree to which cancer incidence rates will differ among people in the exposed and unexposed populations. There also is significant uncertainty about latency periods between exposure and incidence for many forms of cancer.

If average incidence rates were 30 percent higher among the exposed population, compared with the 8 percent higher assumed in this estimate, the legislation's cost would be \$1.1 billion higher over the 2020-2029 period. Conversely, if incidence rates were 1 percent higher, the cost of the legislation would be \$0.3 billion lower over that period.

Combined Uncertainty Scenarios. Using both high-end scenarios described above—95 percent participation in the WTC Health Program and 30 percent higher cancer rates—then CBO estimates the legislation's cost would increase by \$4.1 billion over the 2020-2029 period.

Using both low-end scenarios described above—33 percent participation in the WTC Health Program and 1 percent higher cancer rates—then CBO estimates the legislation's costs would be \$3 billion lower over that period.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 5.

**Table 5.**
CBO’s Estimate of Pay-As-You-Go Effects of H.R. 1327

	By Fiscal Year, Millions of Dollars											2019- 2024	2019- 2029
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029		
	Net Increase in the Deficit												
Statutory Pay-As-You-Go Effect	0	950	1,387	1,947	1,868	633	643	653	663	703	733	6,785	10,180

Increase in Long-Term Deficits

CBO estimates that enacting the H.R. 1327 would increase on-budget deficits by more than \$5 billion in at least one of the four 10-year periods beginning in 2030.

Mandates: None

Estimate Comparison

On June 11, 2019, the special master of the VCF provided testimony to the Congress indicating that the VCF would require \$4.616 billion more than the \$7.375 billion currently appropriated for the program to fully pay the cost of all eligible claims under current law.¹⁸ That estimate—totaling \$11.991 billion—assumes that no more claims would be filed after December 18, 2020, the current statutory deadline for filing claims. The VCF has not published an estimate of the costs to pay claims filed beyond that date under a scenario that assumes continuation of the program.

CBO’s estimates of the cost to pay claims and the administrative costs of the program are consistent with the VCF’s estimate through December 20, 2020. CBO’s analysis was based on data provided by VCF, and CBO made similar assumptions about the number and types of claims that would be approved for an award up to that date. CBO’s estimate of H.R. 1327 differs from the VCF’s because it also includes the estimated the costs of continuing to pay claims beyond December 2020, over the entire 2020-2029 period.

18. See the testimony of Rupa Bhattacharyya, Special Master, September 11th Victim Compensation Fund, before the Subcommittee on the Constitution, Civil Rights and Civil Liberties of the House Committee on the Judiciary (June 11, 2019), <https://go.usa.gov/xyrzh> (PDF, 288 KB). The estimates in that testimony are based on information in September 11th Victim Compensation Fund, *Seventh Annual Status Report and Third Annual Reassessment of Policies and Procedures* (February 2019), <https://go.usa.gov/xygNY> (PDF, 555 KB).



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