

118TH CONGRESS  
2D SESSION

# H. R. 7788

To amend the Public Health Service Act to establish the Firefighter PFAS Injury Compensation Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 2024

Mr. SOTO introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and the Budget, 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

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## A BILL

To amend the Public Health Service Act to establish the Firefighter PFAS Injury Compensation Program, 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Firefighter PFAS Injury Compensation Act of 2024”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Firefighter PFAS Injury Compensation Program.

- Sec. 3. PFAS Trust Fund.  
 Sec. 4. PFAS manufacturer’s excise tax.  
 Sec. 5. PFAS litigation excise tax.  
 Sec. 6. Budgetary effects.

1 **SEC. 2. FIREFIGHTER PFAS INJURY COMPENSATION PRO-**  
 2 **GRAM.**

3 The Public Health Service Act (42 U.S.C. 201 et  
 4 seq.) is amended by adding at the end the following:

5 **“TITLE XXXIV—FIREFIGHTER**  
 6 **PFAS INJURY COMPENSATION**  
 7 **PROGRAM**

8 **“SEC. 3401. FIREFIGHTER PFAS INJURY COMPENSATION**  
 9 **PROGRAM.**

10 “(a) ESTABLISHMENT.—The Secretary shall estab-  
 11 lish a program, to be known as the Firefighter PFAS In-  
 12 jury Compensation Program (in this title referred to as  
 13 the ‘Program’), for the purpose of providing compensation  
 14 for physical injury or death suffered by firefighters in con-  
 15 nection with PFAS-related health conditions.

16 “(b) SUBMISSION OF CLAIMS.—

17 “(1) IN GENERAL.—Subject to paragraph (3),  
 18 to seek compensation under the Program, an eligible  
 19 claimant shall submit to the Secretary a claim—

20 “(A) using the claim form developed by the  
 21 Secretary under paragraph (2); and

1           “(B) by presenting any additional evi-  
2           dence, including witness testimony and sup-  
3           porting documents, alongside such claim form.

4           “(2) CLAIM FORM.—The Secretary shall de-  
5           velop a claim form that requests the following infor-  
6           mation:

7                   “(A) Information concerning any PFAS-re-  
8                   lated health condition of the firefighter in rela-  
9                   tion to whom the eligible claimant seeks com-  
10                  pensation, including—

11                           “(i) proof of the diagnosis of such  
12                           condition by a physician; and

13                           “(ii) the date of such diagnosis.

14                   “(B) The years of service of such fire-  
15                   fighter.

16                   “(C) A description of any special cir-  
17                   cumstances that may support a more substan-  
18                   tial award.

19           “(3) TIME LIMITATION.—An eligible claimant  
20           may submit a claim under paragraph (1) during the  
21           period beginning on the date on which the regula-  
22           tions are promulgated as final under section 3403  
23           and ending on the later of—

1           “(A) the date that is 2 years after the date  
2           on which such regulations are promulgated as  
3           final; and

4           “(B) the date that is 2 years after the date  
5           of death of the firefighter in relation to whom  
6           the eligible claimant seeks compensation.

7           “(c) ELIGIBLE CLAIMANT.—

8           “(1) IN GENERAL.—A person is eligible to sub-  
9           mit a claim under the Program only if such per-  
10          son—

11           “(A)(i) served as a firefighter for 2 or  
12          more years; and

13           “(ii) during or after such service, suffered  
14          a PFAS-related health condition; or

15           “(B) in the case of a deceased firefighter  
16          who meets the requirements of subparagraph  
17          (A)—

18           “(i) is the administrator of the estate  
19          of such firefighter; or

20           “(ii) in the case that the claim is sub-  
21          mitted before the date on which the estate  
22          of such firefighter is opened—

23           “(I) is an adult heir of such fire-  
24          fighter; and

25           “(II) is represented by counsel.

1           “(2) CLAIMS FROM MULTIPLE ADULT HEIRS  
2 PROHIBITED.—If more than 1 adult heir described  
3 in paragraph (1)(B)(ii) submits a claim for the same  
4 firefighter before the date on which the estate of  
5 such firefighter is opened, all such adult heirs shall  
6 cease to be eligible claimants. In such case, the eligi-  
7 ble claimant shall be the administrator of the fire-  
8 fighter’s estate under paragraph (1)(B)(i).

9           “(d) REVIEW OF CLAIMS.—

10           “(1) IN GENERAL.—For each claim submitted  
11 under subsection (b)(1), the Secretary shall—

12           “(A) determine whether the firefighter suf-  
13 fered a PFAS-related health condition; and

14           “(B) not later than 120 days after the  
15 date on which the claim is submitted—

16           “(i) determine the amount of com-  
17 pensation (if any) to award to the eligible  
18 claimant, as described in subsection (e);  
19 and

20           “(ii) provide to the eligible claimant  
21 written notice of such determination.

22           “(2) NO-FAULT PROGRAM.—In reviewing claims  
23 under paragraph (1), the Secretary—

24           “(A) shall conclude that any PFAS-related  
25 health condition of a firefighter was caused by

1 exposure to PFAS during the firefighting activi-  
2 ties of such firefighter; and

3 “(B) may not consider negligence or any  
4 other theory of liability or defense thereto.

5 “(3) RIGHTS OF ELIGIBLE CLAIMANT.—An eli-  
6 gible claimant in a review under paragraph (1) shall  
7 have the right to be represented by an attorney.

8 “(e) AMOUNT OF COMPENSATION.—

9 “(1) IN GENERAL.—The amount of compensa-  
10 tion described in subsection (d)(1)(B)(i) is the base  
11 award described in paragraph (2), as multiplied by  
12 the service modifier described in paragraph (3), and  
13 as modified by any special circumstances (as the  
14 Secretary determines appropriate).

15 “(2) BASE AWARD.—Subject to paragraph (4),  
16 the base award described in this paragraph is—

17 “(A) \$250,000 for a PFAS-related health  
18 condition that is a cancer; and

19 “(B) \$50,000 for a PFAS-related health  
20 condition that is not a cancer.

21 “(3) SERVICE MODIFIER.—The service modifier  
22 described in this paragraph is—

23 “(A) 1 for a firefighter with at least 2 and  
24 fewer than 5 years of service;

1           “(B) 2 for a firefighter with at least 5 and  
2 fewer than 7 years of service;

3           “(C) 3 for a firefighter with at least 7 and  
4 fewer than 10 years of service; and

5           “(D) 4 for a firefighter with at least 10  
6 years of service.

7           “(4) INFLATION ADJUSTMENTS.—The Sec-  
8 retary may adjust the base award described in para-  
9 graph (2) to account for any inflation or deflation  
10 occurring after the date of enactment of the Fire-  
11 fighter PFAS Injury Compensation Act of 2024.

12           “(5) NO PUNITIVE DAMAGES; NO CONSIDER-  
13 ATION OF FUNDING AVAILABILITY.—In determining  
14 the amount of compensation described in subsection  
15 (d)(1)(B)(i), the Secretary—

16           “(A) may not include any punitive dam-  
17 ages; and

18           “(B) may not consider the amounts avail-  
19 able in the PFAS Trust Fund under section  
20 9512 of the Internal Revenue Code of 1986.

21           “(f) LIMITATIONS ON CLAIMS.—

22           “(1) ONLY 1 CANCER AND 1 NONCANCER CON-  
23 DITION.—An eligible claimant may receive com-  
24 pensation under the Program only with respect to 1  
25 PFAS-related health condition that is a cancer and

1 1 PFAS-related health condition that is not a can-  
2 cer.

3 “(2) SINGLE CLAIM RULE.—Only 1 claim may  
4 be submitted under the Program with respect to any  
5 firefighter, but a single claim may include multiple  
6 PFAS-related health conditions, and claims may be  
7 amended and supplemented.

8 “(g) APPEALS TO COURT OF FEDERAL CLAIMS.—

9 “(1) IN GENERAL.—An eligible claimant ag-  
10 grieved by a determination of the Secretary with re-  
11 spect to a claim of such eligible claimant under the  
12 Program may appeal such determination to the  
13 United States Court of Federal Claims.

14 “(2) DE NOVO REVIEW.—The United States  
15 Court of Federal Claims shall review any determina-  
16 tion appealed under paragraph (1) using a de novo  
17 standard of review.

18 “(3) ADDITIONAL EVIDENCE.—As part of an  
19 appeal referred to in paragraph (1), an eligible  
20 claimant may provide additional evidence, including  
21 witness testimony and supporting documents, irre-  
22 spective of whether such evidence was provided in  
23 the claim submitted under subsection (b)(1).

1 **“SEC. 3402. PAYMENTS TO ELIGIBLE INDIVIDUALS.**

2       “(a) IN GENERAL.—Subject to subsection (b), not  
3 later than 20 days after the date on which a determination  
4 is made by the Secretary regarding the amount of com-  
5 pensation to award an eligible claimant under the Pro-  
6 gram, the Secretary shall pay to such eligible claimant  
7 such amount from the PFAS Trust Fund under section  
8 9512 of the Internal Revenue Code of 1986.

9       “(b) LIMITATIONS.—

10           “(1) PAYMENT SYSTEM.—The Secretary shall  
11 establish a system for providing compensation for  
12 claims in accordance with this subsection and section  
13 3401.

14           “(2) AGENCY POLICIES AND PROCEDURES.—

15           “(A) DEVELOPMENT.—

16           “(i) IN GENERAL.—Not later than 30  
17 days after the date of enactment of the  
18 Firefighter PFAS Injury Compensation  
19 Act of 2024, the Secretary shall develop  
20 agency policies and procedures that meet  
21 the requirements described in clauses (ii)  
22 and (iii) for providing compensation for  
23 claims.

24           “(ii) NO EXCEEDING AMOUNTS IN  
25 FUND.—The policies and procedures devel-  
26 oped under clause (i) shall ensure that

1 total obligations and expenditures in pro-  
2 viding compensation for claims do not ex-  
3 ceed the amounts appropriated to the  
4 PFAS Trust Fund under section 9512 of  
5 the Internal Revenue Code of 1986.

6 “(iii) PRORATION.—The policies and  
7 procedures developed under clause (i) shall  
8 include a process for prorating payments  
9 when funding is deficient and for  
10 supplementing the prorated payments as  
11 funding becomes available consistent with  
12 paragraph (3).

13 “(B) REASSESSMENT.—Not later than 1  
14 year after the date of enactment of the Fire-  
15 fighter PFAS Injury Compensation Act of  
16 2024, and annually thereafter, the Secretary  
17 shall conduct a reassessment of the agency poli-  
18 cies and procedures developed under subpara-  
19 graph (A) to ensure that such policies and pro-  
20 cedures continue to satisfy the requirements de-  
21 scribed in clauses (ii) and (iii) of such subpara-  
22 graph. If the Secretary determines, upon reas-  
23 sessment, that such agency policies or proce-  
24 dures do not achieve the requirements of such  
25 clauses, the Secretary shall take additional ac-

1           tions or make such modifications as necessary  
2           to achieve such requirements.

3           “(3) ADJUSTMENT FOR DELAYED PAYMENT  
4           DUE TO INSUFFICIENT FUNDING.—

5                   “(A) IN GENERAL.—For any claim for  
6           which the Secretary advises the eligible claim-  
7           ant that the amount of compensation to be paid  
8           has been reduced on the basis of insufficient  
9           funding, the Secretary shall, in the first fiscal  
10          year beginning after sufficient funding becomes  
11          available, pay to the eligible claimant the un-  
12          paid amount plus 6 percent interest per annum  
13          on such unpaid amount.

14                   “(B) DEFINITIONS.—In this paragraph:

15                           “(i) INSUFFICIENT FUNDING.—The  
16           term ‘insufficient funding’ means funding  
17           that the Secretary determines is insuffi-  
18           cient for purposes of compensating all  
19           claims under the Program.

20                           “(ii) SUFFICIENT FUNDING.—The  
21           term ‘sufficient funding’ means funding  
22           that the Secretary determines is sufficient  
23           for purposes of compensating all claims  
24           under the Program.

1                   “(iii) UNPAID AMOUNT.—The term  
2                   ‘unpaid amount’ means the amount of ad-  
3                   ditional compensation the eligible claimant  
4                   would have been paid under the Program  
5                   if sufficient funding had been available.

6                   “(4) DECEDENTS’ CREDITORS.—Compensation  
7                   paid under the Program is not subject to a claim of  
8                   a creditor of any deceased firefighter with respect to  
9                   whom such compensation was paid.

10                  “(c) ATTORNEYS’ FEES.—

11                  “(1) MAXIMUM PERCENTAGE.—Notwith-  
12                  standing any contract, attorneys’ fees for services  
13                  rendered in obtaining compensation under the Pro-  
14                  gram (including an appeal under section 3401(g))  
15                  may not exceed the highest percentage permitted  
16                  under section 2678 of title 28, United States Code.

17                  “(2) PENALTIES.—Any attorney who charges,  
18                  demands, receives, or collects for services rendered  
19                  in connection with obtaining compensation under the  
20                  Program any amount in excess of that allowed under  
21                  this subsection, if recovery be had, shall be subject  
22                  to the penalties provided in such section 2678.

1 **“SEC. 3403. REGULATIONS.**

2 “Not later than 90 days after the date of enactment  
3 of this title, the Secretary shall promulgate regulations to  
4 carry out this title, including regulations with respect to—

5 “(1) the claim form developed by the Secretary  
6 under section 3401(b)(2);

7 “(2) procedures for hearing and the presen-  
8 tation of evidence;

9 “(3) procedures to assist a person in submitting  
10 and pursuing a claim under this title; and

11 “(4) other matters determined appropriate by  
12 the Secretary.

13 **“SEC. 3404. DEFINITIONS.**

14 “In this title:

15 “(1) **FIREFIGHTER.**—The term ‘firefighter’  
16 means a member of a civilian or military fire depart-  
17 ment or volunteer fire organization who is qualified  
18 to respond to and extinguish fires.

19 “(2) **HEIR.**—The term ‘heir’ means, in relation  
20 to a deceased individual, an individual who, at the  
21 time of death of the deceased individual, was a  
22 spouse, parent, child, grandchild, or sibling of the  
23 deceased individual.

24 “(3) **PFAS.**—The term ‘PFAS’ means per- and  
25 polyfluoroalkyl substances.

26 “(4) **PFAS-RELATED HEALTH CONDITION.**—

1           “(A) IN GENERAL.—The term ‘PFAS-re-  
2           lated health condition’ means an illness or  
3           health condition for which exposure to PFAS is  
4           likely to be a significant factor in aggravating,  
5           contributing to, or causing the illness or health  
6           condition, including—

7                   “(i) cancers of the kidney, testicle,  
8                   liver, prostate, bladder, pancreas, breast,  
9                   colon, and ovary;

10                   “(ii) thyroid diseases;

11                   “(iii) ulcerative colitis; and

12                   “(iv) any other illness or health condi-  
13                   tion, as the Secretary determines appro-  
14                   priate.

15           “(B) ADVISORY PANEL.—

16                   “(i) ESTABLISHMENT.—The Secretary  
17                   shall establish an advisory panel of individ-  
18                   uals with appropriate expertise to advise  
19                   the Secretary on which other illnesses or  
20                   health conditions should be considered  
21                   PFAS-related health conditions under sub-  
22                   paragraph (A)(iv).

23                   “(ii) RECOMMENDATIONS REGARDING  
24                   SPECIFIC CLAIMS.—For each claim sub-  
25                   mitted under subsection (b)(1) with respect

1 to an illness or health condition not listed  
2 in clauses (i) through (iii) of subparagraph  
3 (A), or previously determined by the Sec-  
4 retary to be a PFAS-related health condi-  
5 tion under clause (iv) of such subpara-  
6 graph, the advisory panel established under  
7 clause (i) shall, not later than 90 days  
8 after the submission of such claim, submit  
9 to the Secretary a recommendation on  
10 whether the illness or health condition  
11 should be considered a PFAS-related  
12 health condition.

13 “(iii) TERMINATION.—Section  
14 1013(a)(2) of title 5, United States Code,  
15 (relating to the termination of advisory  
16 committees) shall not apply to the advisory  
17 panel established under clause (i).

18 **“SEC. 3405. FUNDING.**

19 “(a) COMPENSATION PAID ONLY FROM PFAS  
20 TRUST FUND.—Compensation under this title may be  
21 awarded only from amounts in the PFAS Trust Fund es-  
22 tablished under section 9512 of the Internal Revenue Code  
23 of 1986.

24 “(b) AUTHORIZATION OF APPROPRIATIONS FOR AD-  
25 MINISTRATIVE COSTS.—There is authorized to be appro-

1 priated for the costs of administering and carrying out  
2 this title such sums as may be necessary for each of fiscal  
3 years 2025 through 2029.”.

4 **SEC. 3. PFAS TRUST FUND.**

5 (a) IN GENERAL.—Subchapter A of Chapter 98 of  
6 the Internal Revenue Code of 1986 is amended by adding  
7 at the end the following new section:

8 **“SEC. 9512. PFAS TRUST FUND.**

9 “(a) CREATION OF TRUST FUND.—There is hereby  
10 established in the Treasury of the United States a trust  
11 fund to be known as the PFAS Trust Fund, consisting  
12 of such amounts as may be appropriated or credited to  
13 such Trust Fund as provided in this section or section  
14 9602(b).

15 “(b) TRANSFER TO TRUST FUND OF AMOUNTS  
16 EQUIVALENT TO CERTAIN TAXES AND CONTRIBU-  
17 TIONS.—There are hereby appropriated to the PFAS  
18 Trust Fund amounts equivalent to—

19 “(1) the taxes received in the Treasury under  
20 sections 4191 and 5000E; and

21 “(2) the contributions accepted by the Sec-  
22 retary of Health and Human Services under sub-  
23 section (c).

24 “(c) CONTRIBUTIONS.—The Secretary of Health and  
25 Human Services may accept contributions to the PFAS

1 Trust Fund under such terms and conditions as the Sec-  
2 retary determines appropriate.

3 “(d) EXPENDITURES FROM TRUST FUND.—  
4 Amounts in the PFAS Trust Fund shall be available with-  
5 out further appropriation to the Secretary of Health and  
6 Human Services to provide compensation through the  
7 Firefighter PFAS Injury Compensation Program under  
8 title XXXIV of the Public Health Service Act.”.

9 (b) CLERICAL AMENDMENT.—The table of sections  
10 for subchapter A of chapter 98 of such Code is amended  
11 by adding at the end the following new item:

“Sec. 9512. PFAS Trust Fund.”.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this Act shall apply to amounts received after the date  
14 of the enactment of this Act.

15 **SEC. 4. PFAS MANUFACTURER’S EXCISE TAX.**

16 (a) IN GENERAL.—Chapter 32 of subtitle D of the  
17 Internal Revenue Code of 1986 is amended by inserting  
18 the following new section after subchapter D:

19 **“Subchapter E—PFAS**

“Sec. 4191. PFAS excise tax.

20 **“SEC. 4191. PFAS EXCISE TAX.**

21 “(a) IN GENERAL.—There is hereby imposed on  
22 PFAS products sold by the manufacturer, producer, or  
23 importer thereof a tax equal to 10 percent of the price  
24 for which so sold.

1 “(b) DEFINITIONS.—For purposes of this section:

2 “(1) PFAS.—The term ‘PFAS’ means per- and  
3 polyflouroalkyl substances.

4 “(2) PFAS PRODUCTS.—The term ‘PFAS  
5 products’ means any product containing PFAS, in-  
6 cluding firefighter gear containing PFAS.”.

7 (b) CLERICAL AMENDMENT.—The table of sub-  
8 chapters for chapter 32 of subtitle D of such Code is  
9 amended by inserting after the item relating to subchapter  
10 D the following new item:

“Subchapter E. PFAS”.

11 (c) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to products sold after the date of  
13 the enactment of this Act.

14 **SEC. 5. PFAS LITIGATION EXCISE TAX.**

15 (a) IN GENERAL.—Subtitle D of the Internal Rev-  
16 enue Code of 1986 is amended by adding at the end the  
17 following new chapter:

18 **“CHAPTER 50B—PFAS LITIGATION**

“Sec. 5000E. PFAS litigation excise tax.

19 **“SEC. 5000E. PFAS LITIGATION EXCISE TAX.**

20 “(a) IN GENERAL.—There is hereby imposed a tax  
21 on any taxpayer that pays a qualifying PFAS litigation  
22 award during the taxable year in an amount equal to 10  
23 percent of the present value of such award.

1       “(b) QUALIFYING PFAS LITIGATION AWARD.—For  
2 purposes of this section, the term ‘qualifying PFAS litiga-  
3 tion award’ means a payment made pursuant to any final  
4 court order or settlement to compensate any person for  
5 harm suffered as a result of exposure to PFAS (as defined  
6 in section 4191) other than a claim for personal injury.”.

7       (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to payments paid or incurred after  
9 the date of the enactment of this section.

10 **SEC. 6. BUDGETARY EFFECTS.**

11       (a) STATUTORY PAYGO SCORECARDS.—The budg-  
12 etary effects of this Act and the amendments made by this  
13 Act shall not be entered on either PAYGO scorecard main-  
14 tained pursuant to section 4(d) of the Statutory Pay As-  
15 You-Go Act of 2010.

16       (b) SENATE PAYGO SCORECARDS.—The budgetary  
17 effects of this Act and the amendments made by this Act  
18 shall not be entered on any PAYGO scorecard maintained  
19 for purposes of section 4106 of H. Con. Res. 71 (115th  
20 Congress).

○