

118TH CONGRESS
2D SESSION

S. 4013

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

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2024

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on Finance

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. Excise tax on PFAS manufacturers.

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

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

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

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

8 “(i) proof of the diagnosis of such
9 condition by a physician; and

10 “(ii) the date of such diagnosis.

11 “(B) The years of service of such fire-
12 fighter.

13 “(C) A description of any special cir-
14 cumstances that may support a more substan-
15 tial award.

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

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

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

4 “(c) ELIGIBLE CLAIMANT.—

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

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

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

12 “(B) in the case of a deceased firefighter
13 who meets the requirements of subparagraph
14 (A)—

15 “(i) is the administrator of the estate
16 of such firefighter; or

17 “(ii) in the case that the claim is sub-
18 mitted before the date on which the estate
19 of such firefighter is opened—

20 “(I) is an adult heir of such fire-
21 fighter; and

22 “(II) is represented by counsel.

23 “(2) CLAIMS FROM MULTIPLE ADULT HEIRS
24 PROHIBITED.—If more than 1 adult heir described
25 in paragraph (1)(B)(ii) submits a claim for the same

1 firefighter before the date on which the estate of
2 such firefighter is opened, all such adult heirs shall
3 cease to be eligible claimants. In such case, the eligi-
4 ble claimant shall be the administrator of the fire-
5 fighter's estate under paragraph (1)(B)(i).

6 “(d) REVIEW OF CLAIMS.—

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

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

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

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

17 “(ii) provide to the eligible claimant
18 written notice of such determination.

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

21 “(A) shall conclude that any PFAS-related
22 health condition of a firefighter was caused by
23 exposure to PFAS during the firefighting activi-
24 ties of such firefighter; and

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

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

6 “(e) AMOUNT OF COMPENSATION.—

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

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

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

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

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

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

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

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

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

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

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

14 “(A) may not include any punitive dam-
15 ages; and

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

19 “(f) LIMITATIONS ON CLAIMS.—

20 “(1) ONLY 1 CANCER AND 1 NONCANCER CON-
21 DITION.—An eligible claimant may receive com-
22 pensation under the Program only with respect to 1
23 PFAS-related health condition that is a cancer and
24 1 PFAS-related health condition that is not a can-
25 cer.

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

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

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

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

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

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

23 “(a) IN GENERAL.—Subject to subsection (b), not
24 later than 20 days after the date on which a determination
25 is made by the Secretary regarding the amount of com-

1 pension to award an eligible claimant under the Pro-
2 gram, the Secretary shall pay to such eligible claimant
3 such amount from the PFAS Trust Fund under section
4 9512 of the Internal Revenue Code of 1986.

5 “(b) LIMITATIONS.—

6 “(1) PAYMENT SYSTEM.—The Secretary shall
7 establish a system for providing compensation for
8 claims in accordance with this subsection and section
9 3401.

10 “(2) AGENCY POLICIES AND PROCEDURES.—

11 “(A) DEVELOPMENT.—

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

20 “(ii) NO EXCEEDING AMOUNTS IN
21 FUND.—The policies and procedures devel-
22 oped under clause (i) shall ensure that
23 total obligations and expenditures in pro-
24 viding compensation for claims do not ex-
25 ceed the amounts appropriated to the

1 PFAS Trust Fund under section 9512 of
2 the Internal Revenue Code of 1986.

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

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

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

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

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

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

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

23 “(iii) UNPAID AMOUNT.—The term
24 ‘unpaid amount’ means the amount of ad-
25 ditional compensation the eligible claimant

1 would have been paid under the Program
2 if sufficient funding had been available.

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

7 “(c) ATTORNEYS’ FEES.—

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

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

20 **“SEC. 3403. REGULATIONS.**

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

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

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

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

5 “(4) other matters determined appropriate by
6 the Secretary.

7 **“SEC. 3404. DEFINITIONS.**

8 “In this title:

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

13 “(2) **HEIR.**—The term ‘heir’ means, in relation
14 to a deceased individual, an individual who, at the
15 time of death of the deceased individual, was a
16 spouse, parent, child, grandchild, or sibling of the
17 deceased individual.

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

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

21 “(A) **IN GENERAL.**—The term ‘PFAS-re-
22 lated health condition’ means an illness or
23 health condition for which exposure to PFAS is
24 likely to be a significant factor in aggravating,

1 contributing to, or causing the illness or health
2 condition, including—

3 “(i) cancers of the kidney, testicle,
4 liver, prostate, bladder, pancreas, breast,
5 colon, and ovary;

6 “(ii) thyroid diseases;

7 “(iii) ulcerative colitis; and

8 “(iv) any other illness or health condi-
9 tion, as the Secretary determines appro-
10 priate.

11 “(B) ADVISORY PANEL.—

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

19 “(ii) RECOMMENDATIONS REGARDING
20 SPECIFIC CLAIMS.—For each claim sub-
21 mitted under subsection (b)(1) with respect
22 to an illness or health condition not listed
23 in clauses (i) through (iii) of subparagraph
24 (A), or previously determined by the Sec-
25 retary to be a PFAS-related health condi-

1 tion under clause (iv) of such subpara-
2 graph, the advisory panel established under
3 clause (i) shall, not later than 90 days
4 after the submission of such claim, submit
5 to the Secretary a recommendation on
6 whether the illness or health condition
7 should be considered a PFAS-related
8 health condition.

9 “(iii) TERMINATION.—Section
10 1013(a)(2) of title 5, United States Code,
11 (relating to the termination of advisory
12 committees) shall not apply to the advisory
13 panel established under clause (i).

14 **“SEC. 3405. FUNDING.**

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

20 “(b) AUTHORIZATION OF APPROPRIATIONS FOR AD-
21 MINISTRATIVE COSTS.—There is authorized to be appro-
22 priated for the costs of administering and carrying out
23 this title such sums as may be necessary for each of fiscal
24 years 2025 through 2029.”.

1 **SEC. 3. PFAS TRUST FUND.**

2 (a) IN GENERAL.—Subchapter A of chapter 98 of the
3 Internal Revenue Code of 1986 is amended by adding at
4 the end the following new section:

5 **“SEC. 9512. PFAS TRUST FUND.**

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

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

16 “(1) the taxes received in the Treasury under
17 sections 4191 and 5000E, and

18 “(2) the contributions accepted by the Sec-
19 retary of Health and Human Services under sub-
20 section (c).

21 “(c) CONTRIBUTIONS.—The Secretary of Health and
22 Human Services may accept contributions to the PFAS
23 Trust Fund under such terms and conditions as the Sec-
24 retary determines appropriate.

25 “(d) EXPENDITURES FROM TRUST FUND.—
26 Amounts in the PFAS Trust Fund shall be available,

1 without further appropriation, to the Secretary of Health
 2 and Human Services to provide compensation through the
 3 Firefighter PFAS Injury Compensation Program under
 4 title XXXIV of the Public Health Service Act.”.

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

“Sec. 9512. PFAS Trust Fund.”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to amounts received after the date
 10 of the enactment of this Act.

11 **SEC. 4. EXCISE TAX ON PFAS MANUFACTURERS.**

12 (a) IN GENERAL.—Chapter 32 of subtitle D of the
 13 Internal Revenue Code of 1986 is amended by inserting
 14 after subchapter D the following new subchapter:

15 **“Subchapter E—PFAS**

“Sec. 4191. PFAS excise tax.

16 **“SEC. 4191. PFAS EXCISE TAX.**

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

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

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

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

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

“Subchapter E. PFAS”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to products sold after the date of
10 the enactment of this Act.

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

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

15 **“CHAPTER 50B—PFAS LITIGATION**

“Sec. 5000E. PFAS litigation excise tax.

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

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

21 “(b) QUALIFYING PFAS LITIGATION AWARD.—For
22 purposes of this section, the term ‘qualifying PFAS litiga-
23 tion award’ means a payment made pursuant to any final
24 court order or settlement to compensate any person for

1 harm suffered as a result of exposure to PFAS (as defined
2 in section 4191) other than a claim for personal injury.”.

3 (b) CLERICAL AMENDMENT.—The table of chapters
4 for subtitle D of the Internal Revenue Code of 1986 is
5 amended by adding at the end the following new item:

“CHAPTER 50B—PFAS LITIGATION”.

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

9 **SEC. 6. BUDGETARY EFFECTS.**

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

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

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