

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.

S. 1116

To amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employees duty, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. CARPER (for himself and Ms. SINEMA)

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the “Federal Firefighters
- 5 Fairness Act of 2022”.

1 **SEC. 2. CERTAIN ILLNESSES AND DISEASES PRESUMED TO**
2 **BE WORK-RELATED CAUSE OF DISABILITY OR**
3 **DEATH FOR FEDERAL EMPLOYEES IN FIRE**
4 **PROTECTION ACTIVITIES.**

5 (a) PRESUMPTION RELATING TO EMPLOYEES IN
6 FIRE PROTECTION ACTIVITIES.—

7 (1) IN GENERAL.—Subchapter I of chapter 81
8 of title 5, United States Code, is amended by insert-
9 ing after section 8143a the following:

10 **“§ 8143b. Employees in fire protection activities**

11 “(a) DEFINITIONS.—In this section:

12 “(1) EMPLOYEE IN FIRE PROTECTION ACTIVI-
13 TIES.—The term ‘employee in fire protection activi-
14 ties’ means an employee employed as a firefighter,
15 paramedic, emergency medical technician, rescue
16 worker, ambulance personnel, or hazardous material
17 worker who—

18 “(A) is trained in fire suppression;

19 “(B) has the legal authority and responsi-
20 bility to engage in fire suppression;

21 “(C) is engaged in the prevention, control,
22 and extinguishment of fires or response to
23 emergency situations in which life, property, or
24 the environment is at risk, including the pre-
25 vention, control, suppression, or management of
26 wildland fires; and

1 “(D) performs the activities described in
2 subparagraph (C) as a primary responsibility of
3 the job of the employee.

4 “(2) RULE.—The term ‘rule’ has the meaning
5 given the term in section 804.

6 “(3) SECRETARY.—The term ‘Secretary’ means
7 the Secretary of Labor.

8 “(b) CERTAIN ILLNESSES AND DISEASES DEEMED
9 TO BE PROXIMATELY CAUSED BY EMPLOYMENT IN FIRE
10 PROTECTION ACTIVITIES.—

11 “(1) IN GENERAL.—For a claim under this sub-
12 chapter of disability or death of an employee who
13 has been employed for not less than 5 years in ag-
14 gregate as an employee in fire protection activities,
15 an illness or disease specified on the list established
16 under paragraph (2) shall be deemed to be proxi-
17 mately caused by the employment of that employee,
18 if the employee is diagnosed with that illness or dis-
19 ease not later than 10 years after the last active
20 date of employment as an employee in fire protection
21 activities.

22 “(2) ESTABLISHMENT OF INITIAL LIST.—There
23 is established under this section the following list of
24 illnesses and diseases:

25 “(A) Bladder cancer.

1 “(B) Brain cancer.

2 “(C) Chronic obstructive pulmonary dis-
3 ease.

4 “(D) Colorectal cancer.

5 “(E) Esophageal cancer.

6 “(F) Kidney cancer.

7 “(G) Leukemias.

8 “(H) Lung cancer.

9 “(I) Mesothelioma.

10 “(J) Multiple myeloma.

11 “(K) Non-Hodgkin lymphoma.

12 “(L) Prostate cancer.

13 “(M) Skin cancer (melanoma).

14 “(N) A sudden cardiac event or stroke suf-
15 fered while, or not later than 24 hours after,
16 engaging in the activities described in sub-
17 section (a)(1)(C).

18 “(O) Testicular cancer.

19 “(P) Thyroid cancer.

20 “(3) ADDITIONS TO THE LIST.—

21 “(A) IN GENERAL.—

22 “(i) PERIODIC REVIEW.—The Sec-
23 retary shall—

24 “(I) in consultation with the Di-
25 rector of the National Institute for

1 Occupational Safety and Health and
2 any advisory committee determined
3 appropriate by the Secretary, periodi-
4 cally review the list established under
5 paragraph (2); and

6 “(II) if the Secretary determines
7 that the weight of the best available
8 scientific evidence warrants adding an
9 illness or disease to the list estab-
10 lished under paragraph (2), as de-
11 scribed in subparagraph (B) of this
12 paragraph, make such an addition
13 through a rule that clearly identifies
14 that scientific evidence.

15 “(ii) CLASSIFICATION.—A rule issued
16 by the Secretary under clause (i) shall be
17 considered to be a major rule for the pur-
18 poses of chapter 8.

19 “(B) BASIS FOR DETERMINATION.—The
20 Secretary shall add an illness or disease to the
21 list established under paragraph (2) based on
22 the weight of the best available scientific evi-
23 dence that there is a significant risk to employ-
24 ees in fire protection activities of developing
25 that illness or disease.

1 “(C) AVAILABLE EXPERTISE.—In deter-
2 mining significant risk for purposes of subpara-
3 graph (B), the Secretary may accept as authori-
4 tative, and may rely upon, recommendations,
5 risk assessments, and scientific studies (includ-
6 ing analyses of National Firefighter Registry
7 data pertaining to Federal firefighters) by the
8 National Institute for Occupational Safety and
9 Health, the National Toxicology Program, the
10 National Academies of Sciences, Engineering,
11 and Medicine, and the International Agency for
12 Research on Cancer.”.

13 (2) TECHNICAL AND CONFORMING AMEND-
14 MENT.—The table of sections for subchapter I of
15 chapter 81 of title 5, United States Code, is amend-
16 ed by inserting after the item relating to section
17 8143a the following:

“8143b. Employees in fire protection activities.”.

18 (3) APPLICATION.—The amendments made by
19 this subsection shall apply to claims for compensa-
20 tion filed on or after the date of enactment of this
21 Act.

22 (b) RESEARCH COOPERATION.—Not later than 120
23 days after the date of enactment of this Act, the Secretary
24 of Labor (referred to in this section as the “Secretary”)
25 shall establish a process by which an employee in fire pro-

1 tection activities, as defined in subsection (a) of section
2 8143b of title 5, United States Code, as added by sub-
3 section (a) of this section (referred to in this section as
4 an “employee in fire protection activities”), filing a claim
5 under chapter 81 of title 5, United States Code, as amend-
6 ed by this Act, relating to an illness or disease on the list
7 established under subsection (b)(2) of such section 8143b
8 (referred to in this section as “the list”), as the list may
9 be updated under such section 8143b, shall be informed
10 about, and offered the opportunity to contribute to science
11 by voluntarily enrolling in, the National Firefighter Reg-
12 istry or a similar research or public health initiative con-
13 ducted by the Centers for Disease Control and Prevention.

14 (c) AGENDA FOR FURTHER REVIEW.—Not later than
15 3 years after the date of enactment of this Act, the Sec-
16 retary shall—

17 (1) evaluate the best available scientific evi-
18 dence of the risk to an employee in fire protection
19 activities of developing breast cancer, gynecological
20 cancers, and rhabdomyolysis;

21 (2) add breast cancer, gynecological cancers,
22 and rhabdomyolysis to the list, by rule in accordance
23 with subsection (b)(3) of section 8143b of title 5,
24 United States Code, as added by subsection (a) of

1 this section, if the Secretary determines that such
2 evidence supports that addition; and

3 (3) submit to the Committee on Homeland Se-
4 curity and Governmental Affairs of the Senate and
5 the Committee on Education and Labor of the
6 House of Representatives a report containing—

7 (A) the findings of the Secretary after
8 making the evaluation required under para-
9 graph (1); and

10 (B) the determination of the Secretary
11 under paragraph (2).

12 (d) REPORT ON FEDERAL WILDLAND FIRE-
13 FIGHTERS.—

14 (1) DEFINITION.—In this subsection, the term
15 “Federal wildland firefighter” means an individual
16 occupying a position in the occupational series devel-
17 oped pursuant to section 40803(d)(1) of the Infra-
18 structure Investment and Jobs Act (16 U.S.C.
19 6592(d)(1)).

20 (2) STUDY.—The Secretary of the Interior and
21 the Secretary of Agriculture, in consultation with the
22 Director of the National Institute for Occupational
23 Safety and Health, shall conduct a comprehensive
24 study on long-term health effects that Federal
25 wildland firefighters who are eligible to receive com-

1 pensation for work injuries under chapter 81 of title
2 5, United States Code, as amended by this Act, ex-
3 perience after being exposed to fires, smoke, and
4 toxic fumes when in service.

5 (3) REQUIREMENTS.—The study required
6 under paragraph (2) shall include—

7 (A) the race, ethnicity, age, gender, and
8 time of service of the Federal wildland fire-
9 fighters participating in the study; and

10 (B) recommendations to Congress regard-
11 ing what legislative actions are needed to sup-
12 port the Federal wildland firefighters described
13 in subparagraph (A) in preventing health issues
14 from the toxic exposure described in paragraph
15 (2), similar to veterans who are exposed to burn
16 pits.

17 (4) SUBMISSION AND PUBLICATION.—The Sec-
18 retary of the Interior and the Secretary of Agri-
19 culture shall submit the results of the study con-
20 ducted under this subsection to the Committee on
21 Homeland Security and Governmental Affairs of the
22 Senate and the Committee on Education and Labor
23 of the House of Representatives and make those re-
24 sults publicly available.

1 (e) REPORT ON AFFECTED EMPLOYEES.—Beginning
2 on the date that is 1 year after the date of enactment
3 of this Act, with respect to each annual report required
4 under section 8152 of title 5, United States Code, the Sec-
5 retary—

6 (1) shall include in the report the total number
7 of, and demographics regarding, employees in fire
8 protection activities with illnesses and diseases de-
9 scribed in the list (as the list may be updated under
10 this Act and the amendments made by this Act), as
11 of the date on which that annual report is sub-
12 mitted, which shall be disaggregated by the specific
13 illness or disease for the purposes of understanding
14 the scope of the problem facing those employees; and

15 (2) may—

16 (A) include in the report any information
17 with respect to employees in fire protection ac-
18 tivities that the Secretary determines to be nec-
19 essary; and

20 (B) as appropriate, make recommendations
21 in the report for additional actions that could
22 be taken to minimize the risk of adverse health
23 impacts for employees in fire protection activi-
24 ties.

1 **SEC. 3. INCREASE IN TIME-PERIOD FOR FECA CLAIMANT**
2 **TO SUPPLY SUPPORTING DOCUMENTATION**
3 **TO OFFICE OF WORKER'S COMPENSATION.**

4 Not later than 60 days after the date of enactment
5 of this Act, the Secretary of Labor shall—

6 (1) amend section 10.121 of title 20, Code of
7 Federal Regulations, or any successor regulation, by
8 striking “30 days” and inserting “60 days”; and

9 (2) modify the Federal Employees' Compensa-
10 tion Act manual to reflect the changes made by the
11 Secretary pursuant to paragraph (1).