

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 600, Page 48, Section 270.400, Line 57,  
2 by inserting after all of said section and line the following:  
3

4 "287.068. 1. (1) Cancer contracted by a firefighter shall be presumed as an occupational disease if:

5 (a) The firefighter is a paid or volunteer firefighter who has been assigned to at least five years of hazardous  
6 duty as a firefighter;

7 (b) The firefighter was exposed to an agent classified by the International Agency for Research on Cancer, or  
8 its successor organization, as a group 1 or 2A carcinogen, or classified as a cancer causing agent by the American  
9 Cancer Society, the American Association for Cancer Research, the Agency for Health Care Policy and Research, the  
10 American Society for Clinical Oncology, the National Institute for Occupational Safety and Health, or the United States  
11 National Cancer Institute;

12 (c) Fifteen years have not elapsed since the firefighter was last assigned to hazardous duty as a firefighter;

13 (d) The firefighter is not seventy years of age or older at the time of the diagnosis of cancer; and

14 (e) The cancer contracted is testicular cancer, mesothelioma, multiple myeloma, non-Hodgkin's lymphoma,  
15 skin cancer, malignant melanoma, brain cancer, prostate cancer, colon cancer, or leukemia.

16 (2) The presumption described in subdivision (1) of this subsection shall be rebuttable if:

17 (a) There is evidence that the firefighter's exposure to personal use of cigarettes, tobacco products, or other  
18 conditions presenting an extremely high risk for the development of the cancer alleged was more than likely the  
19 prevailing factor in the cause of progression of the cancer, and such exposure occurred outside the scope of employment  
20 as a firefighter; or

21 (b) There is evidence that the firefighter incurred the type of cancer alleged before becoming a firefighter.

22 (3) This subsection shall only apply to claims filed on or after August 28, 2020.

23 (4) All benefits payable pursuant to this subsection shall only be paid by the division using funds from the  
24 occupational disease fund.

25 (5) For purposes of this section, "hazardous duty" shall mean any duty performed under circumstances in  
26 which an accident could result in serious injury or death, such as duty performed on a high structure where protective  
27 facilities are not used or on an open structure where adverse conditions such as darkness, lightning, steady rain, or high  
28 wind velocity exist.

29 2. The division shall prepare a report containing the following information regarding presumed cancer claims  
30 described under subsection 1 of this section:

31 (1) The number of approved claims;

32 (2) The number of disapproved claims;

33 (3) The number of active claims; and

34 (4) The cost related to claims described under subdivisions (1) and (3) of this subsection.

35 3. The division shall submit the report required under subsection 2 of this section before August 28, 2021, and  
36 an updated report every two years thereafter, to each of the following:

37 (1) The speaker and the minority leader of the house of representatives;

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- 1           (2) The president pro tempore and the minority leader of the senate;  
 2           (3) The Missouri Association of Fire Chiefs, or its successor organization;  
 3           (4) The Fire Fighters Association of Missouri, or its successor organization; and  
 4           (5) The Missouri Municipal League, or its successor organization.

5           4. (1) There is hereby created in the state treasury the "Firefighter's Occupational Disease Fund", which shall  
 6 consist of money collected under this section. The state treasurer shall be custodian of the fund. In accordance with  
 7 sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and  
 8 money in the fund shall be used solely by the political subdivision for the purposes of paying claims payable pursuant to  
 9 this section.

10           (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the  
 11 end of the biennium shall not revert to the credit of the general revenue fund.

12           (3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any  
 13 interest and moneys earned on such investments shall be credited to the fund.

14           (4) Any political subdivision may participate in the fund and use moneys dispersed to it by the state treasurer  
 15 under this section to pay workers compensation awards made against a political subdivision member of the fund.

16           (5) Political subdivisions who participate in the fund shall make annual contributions to the fund in the amount  
 17 determined by the state treasurer in accordance with this section relating to rates established by insurers. Participation  
 18 in the fund has the same effect as purchase of insurance by such political subdivision, as otherwise provided by law, and  
 19 shall have the same effect as a self-insurance plan. Moneys in the fund shall be available for:

20           (a) The payment and settlement of all claims for which coverage has been obtained by any political  
 21 subdivision participating in the fund in accordance with coverages offered by political subdivisions relating to testicular  
 22 cancer, mesothelioma, multiple myeloma, non-Hodgkin's lymphoma, skin cancer, malignant melanoma, brain cancer,  
 23 prostate cancer, colon cancer, or leukemia awards pursuant to subdivision (1) of subsection 6 of section 287.200;

24           (b) Attorney's fees and expenses incurred in the administration and representation of the fund.

25           (6) Each participating political subdivision shall notify the state treasurer within seven working days of the  
 26 time notice is received that a claim for benefits has been made against the political subdivision. The political  
 27 subdivision shall supply information to the state treasurer concerning any claim upon request. It shall also notify the  
 28 state treasurer upon the closing of any claim.

29           (7) Any political subdivision which does not participate in the fund shall provide an option for firefighters to  
 30 make annual contributions to the fund in the amount determined by the state treasurer in accordance with this section  
 31 relating to rates established by insurers.

32           (8) Federal grants, private donations, appropriations made by the general assembly, and any other moneys so  
 33 designated shall be deposited in the fund.

34           287.200. 1. Compensation for permanent total disability shall be paid during the continuance of such  
 35 disability from the date of maximum medical improvement for the lifetime of the employee at the weekly rate of  
 36 compensation in effect under this subsection on the date of the injury for which compensation is being made. The word  
 37 "employee" as used in this section shall not include the injured worker's dependents, estate, or other persons to whom  
 38 compensation may be payable as provided in subsection 1 of section 287.020. The amount of such compensation shall  
 39 be computed as follows:

40           (1) For all injuries occurring on or after September 28, 1983, but before September 28, 1986, the weekly  
 41 compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly  
 42 earnings during the year immediately preceding the injury, as of the date of the injury; provided that the weekly  
 43 compensation paid under this subdivision shall not exceed an amount equal to seventy percent of the state average  
 44 weekly wage, as such wage is determined by the division of employment security, as of the July first immediately  
 45 preceding the date of injury;

46           (2) For all injuries occurring on or after September 28, 1986, but before August 28, 1990, the weekly  
 47 compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly  
 48 earnings during the year immediately preceding the injury, as of the date of the injury; provided that the weekly  
 49 compensation paid under this subdivision shall not exceed an amount equal to seventy-five percent of the state average

1 weekly wage, as such wage is determined by the division of employment security, as of the July first immediately  
2 preceding the date of injury;

3 (3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991, the weekly  
4 compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly  
5 earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed  
6 an amount equal to one hundred percent of the state average weekly wage;

7 (4) For all injuries occurring on or after August 28, 1991, the weekly compensation shall be an amount equal  
8 to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury;  
9 provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to one hundred  
10 five percent of the state average weekly wage;

11 (5) For all injuries occurring on or after September 28, 1981, the weekly compensation shall in no event be less  
12 than forty dollars per week.

13 2. Permanent total disability benefits that have accrued through the date of the injured employee's death are the  
14 only permanent total disability benefits that are to be paid in accordance with section 287.230. The right to unaccrued  
15 compensation for permanent total disability of an injured employee terminates on the date of the injured employee's  
16 death in accordance with section 287.230, and does not survive to the injured employee's dependents, estate, or other  
17 persons to whom compensation might otherwise be payable.

18 3. All claims for permanent total disability shall be determined in accordance with the facts. When an injured  
19 employee receives an award for permanent total disability but by the use of glasses, prosthetic appliances, or physical  
20 rehabilitation the employee is restored to his or her regular work or its equivalent, the life payment mentioned in  
21 subsection 1 of this section shall be suspended during the time in which the employee is restored to his or her regular  
22 work or its equivalent. The employer and the division shall keep the file open in the case during the lifetime of any  
23 injured employee who has received an award of permanent total disability. In any case where the life payment is  
24 suspended under this subsection, the commission may at reasonable times review the case and either the employee or the  
25 employer may request an informal conference with the commission relative to the resumption of the employee's weekly  
26 life payment in the case.

27 4. For all claims filed on or after January 1, 2014, for occupational diseases due to toxic exposure which result  
28 in a permanent total disability or death, benefits in this chapter shall be provided as follows:

29 (1) Notwithstanding any provision of law to the contrary, such amount as due to the employee during said  
30 employee's life as provided for under this chapter for an award of permanent total disability and death, except such  
31 amount shall only be paid when benefits under subdivisions (2) and (3) of this subsection have been exhausted;

32 (2) For occupational diseases due to toxic exposure, but not including mesothelioma, an amount equal to two  
33 hundred percent of the state's average weekly wage as of the date of diagnosis for one hundred weeks paid by the  
34 employer; and

35 (3) In cases where occupational diseases due to toxic exposure are diagnosed to be mesothelioma:

36 (a) For employers that have elected to accept mesothelioma liability under this subsection, an additional  
37 amount of three hundred percent of the state's average weekly wage for two hundred twelve weeks shall be paid by the  
38 employer or group of employers such employer is a member of. Employers that elect to accept mesothelioma liability  
39 under this subsection may do so by either insuring their liability, by qualifying as a self-insurer, or by becoming a  
40 member of a group insurance pool. A group of employers may enter into an agreement to pool their liabilities under this  
41 subsection. If such group is joined, individual members shall not be required to qualify as individual self-insurers. Such  
42 group shall comply with section 287.223. In order for an employer to make such an election, the employer shall provide  
43 the department with notice of such an election in a manner established by the department. The provisions of this  
44 paragraph shall expire on December 31, 2038; or

45 (b) For employers who reject mesothelioma under this subsection, then the exclusive remedy provisions under  
46 section 287.120 shall not apply to such liability. The provisions of this paragraph shall expire on December 31, 2038;  
47 and

48 (4) The provisions of subdivision (2) and paragraph (a) of subdivision (3) of this subsection shall not be  
49 subject to suspension of benefits as provided in subsection 3 of this section; and

1 (5) Notwithstanding any other provision of this chapter to the contrary, should the employee die before the  
2 additional benefits provided for in subdivision (2) and paragraph (a) of subdivision (3) of this subsection are paid, the  
3 additional benefits are payable to the employee's spouse or children, natural or adopted, legitimate or illegitimate, in  
4 addition to benefits provided under section 287.240. If there is no surviving spouse or children and the employee has  
5 received less than the additional benefits provided for in subdivision (2) and paragraph (a) of subdivision (3) of this  
6 subsection the remainder of such additional benefits shall be paid as a single payment to the estate of the employee;

7 (6) The provisions of subdivision (1) of this subsection shall not be construed to affect the employee's ability  
8 to obtain medical treatment at the employer's expense or any other benefits otherwise available under this chapter.

9 5. Any employee who obtains benefits under subdivision (2) of subsection 4 of this section for acquiring  
10 asbestosis who later obtains an award for mesothelioma shall not receive more benefits than such employee would  
11 receive having only obtained benefits for mesothelioma under this section.

12 6. For all claims filed on or after August 28, 2020, for occupational diseases of firefighters due to toxic  
13 exposure which result in a permanent total disability or death, benefits in this chapter shall be as provided in this  
14 subsection. In cases where occupational diseases of firefighters due to toxic exposure are diagnosed to be testicular  
15 cancer, mesothelioma, multiple myeloma, non-Hodgkin's lymphoma, skin cancer, malignant melanoma, brain cancer,  
16 prostate cancer, colon cancer, or leukemia:

17 (1) For political subdivisions that have elected to accept testicular cancer, mesothelioma, multiple myeloma,  
18 non-Hodgkin's lymphoma, skin cancer, malignant melanoma, brain cancer, prostate cancer, colon cancer, or leukemia  
19 liability under this subsection, an additional amount of three hundred percent of the state's average weekly wage for two  
20 hundred twelve weeks shall be paid by the political subdivision. Political subdivisions that elect to accept testicular  
21 cancer, mesothelioma, multiple myeloma, non-Hodgkin's lymphoma, skin cancer, malignant melanoma, brain cancer,  
22 prostate cancer, colon cancer, or leukemia liability under the subsection may do so by either insuring their liability, by  
23 qualifying as a self-insurer, or by becoming a member of a group insurance pool. A group of political subdivisions may  
24 enter into an agreement to pool their liabilities under this subsection. If such group is joined, individual members shall  
25 not be required to qualify as individual self-insurers. Such group shall comply with section 287.068. In order for a  
26 political subdivision to make such an election, the political subdivision shall provide the state treasurer with notice of  
27 such an election in a manner established by the state treasurer; or

28 (2) For political subdivisions who reject testicular cancer, mesothelioma, multiple myeloma, non-Hodgkin's  
29 lymphoma, skin cancer, malignant melanoma, brain cancer, prostate cancer, colon cancer, or leukemia liability under  
30 this subsection, then the exclusive remedy provisions under section 287.120 shall not apply to such liability."; and  
31 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.