

118TH CONGRESS  
1ST SESSION

# H. R. 5169

To amend title 5, United States Code, to provide for special base rates of pay for wildland firefighters, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 8, 2023

Mr. NEGUSE (for himself, Mr. CONNOLLY, Mr. FITZPATRICK, Ms. PORTER, Mrs. CHAVEZ-DEREMER, Mr. HARDER of California, and Mr. C. SCOTT FRANKLIN of Florida) introduced the following bill; which was referred to the Committee on Oversight and Accountability, and in addition to the Committees on Natural Resources, and Agriculture, 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 title 5, United States Code, to provide for special base rates of pay for wildland firefighters, 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.**

4 This Act may be cited as the “Wildland Firefighter  
5 Paycheck Protection Act of 2023”.

1 **SEC. 2. SPECIAL BASE RATES OF PAY FOR WILDLAND FIRE-**  
2 **FIGHTERS.**

3 (a) IN GENERAL.—Subchapter III of chapter 53 of  
4 title 5, United States Code, is amended by inserting after  
5 section 5332 the following:

6 **“§ 5332a. Special base rates of pay for wildland fire-**  
7 **fighters**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the term ‘firefighter’ means an employee  
10 who—

11 “(A) is a firefighter within the meaning of  
12 section 8331(21) or section 8401(14);

13 “(B) in the case of an employee who holds  
14 a supervisory or administrative position and is  
15 subject to subchapter III of chapter 83, but  
16 who does not qualify to be considered a fire-  
17 fighter within the meaning of section 8331(21),  
18 would otherwise qualify if the employee had  
19 transferred directly to that position after serv-  
20 ing as a firefighter within the meaning of that  
21 section;

22 “(C) in the case of an employee who holds  
23 a supervisory or administrative position and is  
24 subject to chapter 84, but who does not qualify  
25 to be considered a firefighter within the mean-  
26 ing of section 8401(14), would otherwise qualify

1 if the employee had transferred directly to that  
2 position after performing duties described in  
3 section 8401(14)(A) for at least 3 years; or

4 “(D) in the case of an employee who is not  
5 subject to subchapter III of chapter 83 or chap-  
6 ter 84, holds a position that the Office of Per-  
7 sonnel Management determines would satisfy  
8 subparagraph (A), (B), or (C) if the employee  
9 were subject to subchapter III of chapter 83 or  
10 chapter 84;

11 “(2) the term ‘General Schedule base rate’  
12 means an annual rate of basic pay established under  
13 section 5332 before any additions, such as a locality-  
14 based comparability payment under section 5304 or  
15 5304a or a special rate supplement under section  
16 5305;

17 “(3) the term ‘special base rate’ means an an-  
18 nual rate of basic pay payable to a wildland fire-  
19 fighter, before any additions or reductions, that re-  
20 places the General Schedule base rate otherwise ap-  
21 plicable to the wildland firefighter and that is ad-  
22 ministered in the same manner as a General Sched-  
23 ule base rate; and

24 “(4) the term ‘wildland firefighter’ means a  
25 firefighter—

1           “(A) who is employed by the Forest Serv-  
2           ice or the Department of the Interior; and

3           “(B) the duties of the position of whom  
4           primarily relate to fires occurring in forests,  
5           range lands, or other wildlands, as opposed to  
6           structural fires.

7           “(b) SPECIAL BASE RATES OF PAY.—

8           “(1) ENTITLEMENT TO SPECIAL RATE.—Not-  
9           withstanding section 5332, a wildland firefighter is  
10          entitled to a special base rate at grades 1 through  
11          15, which shall—

12           “(A) replace the otherwise applicable Gen-  
13           eral Schedule base rate for the wildland fire-  
14           fighter;

15           “(B) be basic pay for all purposes, includ-  
16           ing the purpose of computing a locality-based  
17           comparability payment under section 5304 or  
18           5304a; and

19           “(C) be computed as described in para-  
20           graph (2) and adjusted at the time of adjust-  
21           ments in the General Schedule.

22           “(2) COMPUTATION.—

23           “(A) IN GENERAL.—The special base rate  
24           for a wildland firefighter shall be derived by in-  
25           creasing the otherwise applicable General

1 Schedule base rate for the wildland firefighter  
2 by the following applicable percentage for the  
3 grade of the wildland firefighter and rounding  
4 the result to the nearest whole dollar:

5 “(i) For GS–1, 42 percent.

6 “(ii) For GS–2, 39 percent.

7 “(iii) For GS–3, 36 percent.

8 “(iv) For GS–4, 33 percent.

9 “(v) For GS–5, 30 percent.

10 “(vi) For GS–6, 27 percent.

11 “(vii) For GS–7, 24 percent.

12 “(viii) For GS–8, 21 percent.

13 “(ix) For GS–9, 18 percent.

14 “(x) For GS–10, 15 percent.

15 “(xi) For GS–11, 12 percent.

16 “(xii) For GS–12, 9 percent.

17 “(xiii) For GS–13, 6 percent.

18 “(xiv) For GS–14, 3 percent.

19 “(xv) For GS–15, 1.5 percent.

20 “(B) HOURLY, DAILY, WEEKLY, OR BI-  
21 WEEKLY RATES.—When the special base rate  
22 with respect to a wildland firefighter is ex-  
23 pressed as an hourly, daily, weekly, or biweekly  
24 rate, the special base rate shall be computed  
25 from the appropriate annual rate of basic pay

1           derived under subparagraph (A) in accordance  
2           with the rules under section 5504(b).”.

3           (b) CLERICAL AMENDMENT.—The table of sections  
4 for subchapter III of chapter 53 of title 5, United States  
5 Code, is amended by inserting after the item relating to  
6 section 5332 the following:

“5332a. Special base rates of pay for wildland firefighters.”.

7           (c) PREVAILING RATE EMPLOYEES.—Section 5343  
8 of title 5, United States Code, is amended by adding at  
9 the end the following:

10          “(g)(1) For a prevailing rate employee described in  
11 section 5342(a)(2)(A) who is a wildland firefighter, as de-  
12 fined in section 5332a(a), the Secretary of Agriculture or  
13 the Secretary of the Interior (as applicable) shall increase  
14 the wage rates of that employee by an amount (determined  
15 at the sole and exclusive discretion of the applicable Sec-  
16 retary after consultation with the other Secretary) that is  
17 generally consistent with the percentage increases given  
18 to wildland firefighters in the General Schedule under sec-  
19 tion 5332a.

20          “(2) An increased wage rate under paragraph (1)  
21 shall be basic pay for the same purposes as the wage rate  
22 otherwise established under this section.

23          “(3) An increase under this subsection may not cause  
24 the wage rate of an employee to increase to a rate that

1 would produce an annualized rate in excess of the annual  
2 rate for level IV of the Executive Schedule.”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on the first day of the first  
5 applicable pay period beginning on or after October 1,  
6 2023.

7 (e) APPLICABILITY.—Notwithstanding section  
8 40803(d)(4)(B) of the Infrastructure Investment and  
9 Jobs Act (16 U.S.C. 6592(d)(4)(B)), the salary increase  
10 in such section 40803(d)(4)(B) shall not apply to the posi-  
11 tions described in such section 40803(d)(4)(B) for service  
12 performed on or after the effective date described in sub-  
13 section (d) of this section.

14 **SEC. 3. WILDLAND FIRE INCIDENT RESPONSE PREMIUM**  
15 **PAY.**

16 (a) IN GENERAL.—Subchapter V of chapter 55 of  
17 title 5, United States Code, is amended by inserting after  
18 section 5545b the following:

19 **“§ 5545c. Incident response premium pay for employ-**  
20 **ees engaged in wildland firefighting**

21 “(a) DEFINITIONS.—In this section—

22 “(1) the term ‘appropriate committees of Con-  
23 gress’ means—

24 “(A) the Committee on Homeland Security  
25 and Governmental Affairs of the Senate;

1           “(B) the Committee on Energy and Nat-  
2           ural Resources of the Senate;

3           “(C) the Committee on Agriculture, Nutri-  
4           tion, and Forestry of the Senate;

5           “(D) the Committee on Appropriations of  
6           the Senate;

7           “(E) the Committee on Oversight and Ac-  
8           countability of the House of Representatives;

9           “(F) the Committee on Agriculture of the  
10          House of Representatives;

11          “(G) the Committee on Natural Resources  
12          of the House of Representatives; and

13          “(H) the Committee on Appropriations of  
14          the House of Representatives;

15          “(2) the term ‘covered employee’ means an em-  
16          ployee of the Forest Service or the Department of  
17          the Interior who is—

18                 “(A) a wildland firefighter, as defined in  
19                 section 5332a(a); or

20                 “(B) certified by the applicable agency to  
21                 perform wildland fire incident-related duties  
22                 during the period that employee is deployed to  
23                 respond to a qualifying incident;



1           “(3) the term ‘incident response premium pay’  
2 means pay to which a covered employee is entitled  
3 under subsection (c);

4           “(4) the term ‘prescribed fire incident’ means a  
5 wildland fire originating from a planned ignition in  
6 accordance with applicable laws, policies, and regula-  
7 tions to meet specific objectives;

8           “(5) the term ‘qualifying incident’—

9           “(A) means—

10           “(i) a wildfire incident, a prescribed  
11 fire incident, or a severity incident; or

12           “(ii) an incident that the Secretary of  
13 Agriculture or the Secretary of the Interior  
14 determines is similar in nature to an inci-  
15 dent described in clause (i); and

16           “(B) does not include an initial response  
17 incident that is contained within 36 hours; and

18           “(6) the term ‘severity incident’ means an inci-  
19 dent in which a covered employee is pre-positioned  
20 in an area in which conditions indicate there is a  
21 high risk of wildfires.

22           “(b) ELIGIBILITY.—A covered employee is eligible for  
23 incident response premium pay under this section if—

24           “(1) the covered employee is deployed to re-  
25 spond to a qualifying incident; and

1           “(2) the deployment described in paragraph (1)  
2       is—

3           “(A) outside of the official duty station of  
4       the covered employee; or

5           “(B) within the official duty station of the  
6       covered employee and the covered employee is  
7       assigned to an incident-adjacent fire camp or  
8       other designated field location.

9       “(c) ENTITLEMENT TO INCIDENT RESPONSE PRE-  
10 MIUM PAY.—

11           “(1) IN GENERAL.—A covered employee who  
12       satisfies the conditions under subsection (b) is enti-  
13       tled to premium pay for the period in which the cov-  
14       ered employee is deployed to respond to the applica-  
15       ble qualifying incident.

16           “(2) COMPUTATION.—

17           “(A) FORMULA.—Subject to subpara-  
18       graphs (B) and (C), premium pay under para-  
19       graph (1) shall be paid to a covered employee  
20       at a daily rate of 450 percent of the hourly rate  
21       of basic pay of the covered employee for each  
22       day that the covered employee satisfies the re-  
23       quirements under subsection (b), rounded to  
24       the nearest whole cent.

1           “(B) LIMITATION.—Premium pay under  
2 this subsection may not be paid—

3           “(i) with respect to a covered em-  
4 ployee for whom the annual rate of basic  
5 pay is greater than that for step 10 of GS-  
6 10, at a daily rate that exceeds the daily  
7 rate established under subparagraph (A)  
8 for step 10 of GS-10; or

9           “(ii) to a covered employee in a total  
10 amount that exceeds \$9,000 in any cal-  
11 endar year.

12           “(C) ADJUSTMENTS.—

13           “(i) ASSESSMENT.—The Secretary of  
14 Agriculture and the Secretary of the Inte-  
15 rior shall assess the difference between the  
16 average total amount of compensation that  
17 was paid to covered employees, by grade,  
18 in fiscal years 2023 and 2024.

19           “(ii) REPORT.—Not later than 180  
20 days after the date that is 1 year after the  
21 effective date of this section, the Secretary  
22 of Agriculture and the Secretary of the In-  
23 terior shall jointly publish a report on the  
24 results of the assessment conducted under  
25 clause (i).

1           “(iii) ADMINISTRATIVE ACTIONS.—  
2           After publishing the report required under  
3           clause (ii), the Secretary of Agriculture  
4           and the Secretary of the Interior, in con-  
5           sultation with the Director of the Office of  
6           Personnel Management, may, in the sole  
7           and exclusive discretion of the Secretaries  
8           acting jointly, administratively adjust the  
9           amount of premium pay paid under this  
10          subsection (or take other administrative  
11          action) to ensure that the average annual  
12          amount of total compensation paid to cov-  
13          ered employees, by grade, is more con-  
14          sistent with such amount that was paid to  
15          those employees in fiscal year 2023.

16          “(iv) CONGRESSIONAL NOTIFICA-  
17          TION.—Not later than 3 days after an ad-  
18          justment made, or other administrative ac-  
19          tion taken, under clause (iii) becomes final,  
20          the Secretary of Agriculture and the Sec-  
21          retary of the Interior shall jointly submit  
22          to the appropriate committees of Congress  
23          a notification regarding that adjustment or  
24          other administrative action, as applicable.

1       “(d) TREATMENT OF INCIDENT RESPONSE PREMIUM  
2 PAY.—Incident response premium pay under this sec-  
3 tion—

4           “(1) is not considered part of the basic pay of  
5 a covered employee for any purpose;

6           “(2) may not be considered in determining a  
7 covered employee’s lump-sum payment for accumu-  
8 lated and accrued annual leave under section 5551  
9 or section 5552;

10          “(3) may not be used in determining pay under  
11 section 8114 (relating to compensation for work in-  
12 juries);

13          “(4) may not be considered in determining pay  
14 for hours of paid leave or other paid time off during  
15 which the premium pay is not payable; and

16          “(5) shall be disregarded in determining the  
17 minimum wage and overtime pay to which a covered  
18 employee is entitled under the Fair Labor Standards  
19 Act of 1938 (29 U.S.C. 201 et seq.).”.

20       (b) ADDITIONAL PREMIUM PAY AMENDMENTS.—  
21 Subchapter V of chapter 55 of title 5, United States Code,  
22 is amended—

23           (1) in section 5544—

24               (A) by amending the section heading to  
25 read as follows: “**WAGE-BOARD OVERTIME,**

1           **SUNDAY RATES, AND OTHER PREMIUM**  
2           **PAY**”; and

3           (B) by adding at the end the following:

4           “(d) A prevailing rate employee described in section  
5 5342(a)(2)(A) shall receive incident response premium  
6 pay under the same terms and conditions that apply to  
7 a covered employee under section 5545c if that em-  
8 ployee—

9           “(1) is employed by the Forest Service or the  
10 Department of the Interior; and

11           “(2)(A) is a wildland firefighter, as defined in  
12 section 5332a(a); or

13           “(B) is certified by the applicable agency to  
14 perform wildland fire incident-related duties during  
15 the period the employee is deployed to respond to a  
16 qualifying incident (as defined in section  
17 5545c(a)).”; and

18           (2) in section 5547(a), in the matter preceding  
19 paragraph (1), by inserting “5545c,” after  
20 “5545a,”.

21           (c) **CLERICAL AMENDMENTS.**—The table of sections  
22 for subchapter V of chapter 55 of title 5, United States  
23 Code, is amended—

24           (1) by amending the item relating to section  
25 5544 to read as follows:

“5544. Wage-board overtime, Sunday rates, and other premium pay.”;

1 and

2 (2) by inserting after the item relating to sec-  
3 tion 5545b the following:

“5545c. Incident response premium pay for employees engaged in wildland fire-  
fighting.”.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect on the first day of the first  
6 applicable pay period beginning on or after October 1,  
7 2023.

8 **SEC. 4. REST AND RECUPERATION LEAVE FOR EMPLOYEES**  
9 **ENGAGED IN WILDLAND FIREFIGHTING.**

10 (a) IN GENERAL.—Subchapter II of chapter 63 of  
11 title 5, United States Code, is amended by adding at the  
12 end the following:

13 **“§ 6329e. Rest and recuperation leave for employees**  
14 **engaged in wildland firefighting**

15 “(a) DEFINITIONS.—In this section—

16 “(1) the term ‘applicable Secretary’ means the  
17 Secretary of Agriculture or the Secretary of the In-  
18 terior, as applicable to a covered employee;

19 “(2) the term ‘covered employee’ means an em-  
20 ployee of the Forest Service or the Department of  
21 the Interior who—

22 “(A) qualifies as a wildland firefighter  
23 based on the definitions of the terms ‘fire-  
24 fighter’ and ‘wildland firefighter’ in section

1           5332a(a) (applying the definition of ‘employee’  
2           in section 6301(2) in lieu of the definition of  
3           ‘employee’ in section 5331(a)); or

4           “(B) is certified by the applicable Sec-  
5           retary to perform wildland fire incident-related  
6           duties during the period the employee is de-  
7           ployed to respond to a qualifying incident; and

8           “(3) the term ‘qualifying incident’ has the  
9           meaning given the term in section 5545c(a).

10          “(b) REST AND RECUPERATION LEAVE.—

11           “(1) IN GENERAL.—A covered employee may  
12           receive paid rest and recuperation leave following the  
13           completion of service in which the covered employee  
14           is deployed to respond to a qualifying incident, sub-  
15           ject to the policies prescribed under this subsection.

16           “(2) PRESCRIPTION OF POLICIES.—The Sec-  
17           retary of Agriculture and the Secretary of the Inte-  
18           rior shall prescribe uniform policies described in  
19           paragraph (1) after consulting with the other appli-  
20           cable Secretary.

21           “(3) CONTENT OF POLICIES.—The policies pre-  
22           scribed under paragraph (2) may include—

23           “(A) a maximum period of days in which  
24           a covered employee is deployed to respond to a  
25           qualifying incident, which shall—



1           “(i) begin on the date on which the  
2 covered employee departs from the official  
3 duty station of the covered employee and  
4 end on the date on which the covered em-  
5 ployee returns to the official duty station  
6 of the covered employee; and

7           “(ii) be followed by a minimum num-  
8 ber of days of rest and recuperation for the  
9 covered employee; or

10          “(B) a requirement that prohibits a cov-  
11 ered employee from working more than 16  
12 hours per day on average over a 14-day period  
13 during which the covered employee is deployed  
14 to respond to a qualifying incident.

15          “(c) USE OF LEAVE.—

16           “(1) IN GENERAL.—Rest and recuperation  
17 leave granted under this section—

18           “(A) shall be used during scheduled hours  
19 within the tour of duty of the applicable covered  
20 employee established for leave-charging pur-  
21 poses;

22           “(B) shall be paid in the same manner as  
23 annual leave;

24           “(C) shall be used immediately after a  
25 qualifying incident; and

1 “(D) may not be set aside for later use.

2 “(2) NO PAYMENT.—A covered employee may  
3 not receive any payment for unused rest and recu-  
4 peration leave granted under this section.

5 “(d) INTERMITTENT WORK SCHEDULE.—A covered  
6 employee with an intermittent work schedule—

7 “(1) shall be excused from duty during the  
8 same period of time that other covered employees in  
9 the same circumstances are entitled to rest and re-  
10 cuperation leave; and

11 “(2) shall receive a payment as if the covered  
12 employee were entitled to rest and recuperation leave  
13 under subsection (b).”.

14 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
15 The table of sections for subchapter II of chapter 63 of  
16 title 5, United States Code, is amended by inserting after  
17 the item relating to section 6329d the following:

“6329e. Rest and recuperation leave for employees engaged in wildland fire-  
fighting.”.

18 **SEC. 5. TRANSFER AUTHORITY.**

19 Notwithstanding section 40803(c)(2) of the Infra-  
20 structure Investment and Jobs Act (16 U.S.C.  
21 6592(c)(2)), not more than \$5,000,000 of the unobligated  
22 balances of amounts made available under the heading  
23 “WILDLAND FIRE MANAGEMENT” under the heading  
24 “FOREST SERVICE” under the heading “DEPARTMENT

1 OF AGRICULTURE” in title VI of division J of that Act  
2 (Public Law 117–58; 135 Stat. 1410) pursuant to section  
3 40803(c)(2)(B) of that Act (16 U.S.C. 6592(c)(2)(B))  
4 may, as necessary to continue uninterrupted the Federal  
5 wildland firefighter base salary increase described in sec-  
6 tion 40803(d)(4)(B) of that Act (16 U.S.C.  
7 6592(d)(4)(B)), be transferred to and merged with the  
8 amounts made available under the heading “WILDLAND  
9 FIRE MANAGEMENT” under the heading “DEPARTMENT-  
10 WIDE PROGRAMS” under the heading “DEPARTMENT  
11 OF THE INTERIOR” in title VI of division J of that  
12 Act (Public Law 117–58; 135 Stat. 1393).

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