

Calendar No. 205118TH CONGRESS
1ST SESSION**S. 2272****[Report No. 118-97]**

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

IN THE SENATE OF THE UNITED STATES

JULY 12, 2023

Ms. SINEMA (for herself, Mr. BARRASSO, Mr. MANCHIN, Mr. DAINES, Mr. PADILLA, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

SEPTEMBER 11, 2023

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**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,*

1 **SECTION 1. SHORT TITLE.**

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

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

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

9 **“§ 5332a. Special base rates of pay for wildland fire-**
10 **fighters**

11 “(a) DEFINITIONS.—In this section—

12 “(1) the term ‘firefighter’ means an employee
13 who—

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

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

25 “(C) in the case of an employee who holds
26 a supervisory or administrative position and is

1 subject to chapter 84, but who does not qualify
2 to be considered a firefighter within the mean-
3 ing of section 8401(14), would otherwise qualify
4 if the employee had transferred directly to that
5 position after performing duties described in
6 section 8401(14)(A) for at least 3 years; or

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

14 “(2) the term ‘General Schedule base rate’
15 means an annual rate of basic pay established under
16 section 5332 before any additions, such as a locality-
17 based comparability payment under section 5304 or
18 5304a or a special rate supplement under section
19 5305;

20 “(3) the term ‘special base rate’ means an an-
21 nual rate of basic pay payable to a wildland fire-
22 fighter, before any additions or reductions, that re-
23 places the General Schedule base rate otherwise ap-
24 plicable to the wildland firefighter and that is ad-

1 ministered in the same manner as a General Sched-
 2 ule base rate; and

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

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

7 “(B) the duties of the position of whom
 8 primarily relate to fires occurring in forests,
 9 range lands, or other wildlands, as opposed to
 10 structural fires.

11 “(b) SPECIAL BASE RATES OF PAY.—

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

16 “(A) replace the otherwise applicable Gen-
 17 eral Schedule base rate for the wildland fire-
 18 fighter;

19 “(B) be basic pay for all purposes, includ-
 20 ing the purpose of computing a locality-based
 21 comparability payment under section 5304 or
 22 5304a; and

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

1 “(2) COMPUTATION.—

2 “(A) IN GENERAL.—The special base rate
3 for a wildland firefighter shall be derived by in-
4 creasing the otherwise applicable General
5 Schedule base rate for the wildland firefighter
6 by the following applicable percentage for the
7 grade of the wildland firefighter and rounding
8 the result to the nearest whole dollar:

9 “(i) For GS-1, 42 percent.

10 “(ii) For GS-2, 39 percent.

11 “(iii) For GS-3, 36 percent.

12 “(iv) For GS-4, 33 percent.

13 “(v) For GS-5, 30 percent.

14 “(vi) For GS-6, 27 percent.

15 “(vii) For GS-7, 24 percent.

16 “(viii) For GS-8, 21 percent.

17 “(ix) For GS-9, 18 percent.

18 “(x) For GS-10, 15 percent.

19 “(xi) For GS-11, 12 percent.

20 “(xii) For GS-12, 9 percent.

21 “(xiii) For GS-13, 6 percent.

22 “(xiv) For GS-14, 3 percent.

23 “(xv) For GS-15, 1.5 percent.

24 “(B) HOURLY, DAILY, WEEKLY, OR BI-
25 WEEKLY RATES.—When the special base rate

1 with respect to a wildland firefighter is ex-
 2 pressed as an hourly, daily, weekly, or biweekly
 3 rate, the special base rate shall be computed
 4 from the appropriate annual rate of basic pay
 5 derived under subparagraph (A) in accordance
 6 with the rules under section 5504(b).”.

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

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

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

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

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

4 “(3) An increase under this subsection may not cause
5 the wage rate of an employee to increase to a rate that
6 would produce an annualized rate in excess of the annual
7 rate for level IV of the Executive Schedule.”.

8 (d) **EFFECTIVE DATE.**—The amendments made by
9 this section shall take effect on the first day of the first
10 applicable pay period beginning on or after October 1,
11 2023.

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

19 **SEC. 3. WILDLAND FIRE INCIDENT RESPONSE PREMIUM**
20 **PAY.**

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

1 **“§ 5545e. Incident response premium pay for employ-**
 2 **ees engaged in wildland firefighting**

3 “(a) DEFINITIONS.—In this section—

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

6 “(A) the Committee on Homeland Security
 7 and Governmental Affairs of the Senate;

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

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

12 “(D) the Committee on Appropriations of
 13 the Senate;

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

16 “(F) the Committee on Agriculture of the
 17 House of Representatives;

18 “(G) the Committee on Natural Resources
 19 of the House of Representatives; and

20 “(H) the Committee on Appropriations of
 21 the House of Representatives;

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

25 “(A) a wildland firefighter, as defined in
 26 section 5332a(a); or

1 “(B) certified by the applicable agency to
2 perform wildland fire incident-related duties
3 during the period that employee is deployed to
4 respond to a qualifying incident;

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

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

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

13 “(A) means—

14 “(i) a wildfire incident, a prescribed
15 fire incident, or a severity incident; or

16 “(ii) an incident that the Secretary of
17 Agriculture or the Secretary of the Interior
18 determines is similar in nature to an inci-
19 dent described in clause (i); and

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

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

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

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

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

7 “(A) outside of the official duty station of
8 the covered employee; or

9 “(B) within the official duty station of the
10 covered employee and the covered employee is
11 assigned to an incident-adjacent fire camp or
12 other designated field location.

13 “(c) ENTITLEMENT TO INCIDENT RESPONSE PRE-
14 MIUM PAY.—

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

20 “(2) COMPUTATION.—

21 “(A) FORMULA.—Subject to subpara-
22 graphs (B) and (C), premium pay under para-
23 graph (1) shall be paid to a covered employee
24 at a daily rate of 450 percent of the hourly rate
25 of basic pay of the covered employee for each

1 day that the covered employee satisfies the re-
2 quirements under subsection (b), rounded to
3 the nearest whole cent.

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

6 “(i) with respect to a covered em-
7 ployee for whom the annual rate of basic
8 pay is greater than that for step 10 of GS-
9 10, at a daily rate that exceeds the daily
10 rate established under subparagraph (A)
11 for step 10 of GS-10; or

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

15 “(C) ADJUSTMENTS.—

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

22 “(ii) REPORT.—Not later than 180
23 days after the date that is 1 year after the
24 effective date of this section, the Secretary
25 of Agriculture and the Secretary of the In-

1 terior shall jointly publish a report on the
2 results of the assessment conducted under
3 clause (i).

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

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

1 a notification regarding that adjustment or
2 other administrative action, as applicable.

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

6 ~~“(1) is not considered part of the basic pay of~~
7 ~~a covered employee for any purpose;~~

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

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

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

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

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

25 ~~(1) in section 5544—~~

1 (A) by amending the section heading to
 2 read as follows: **“WAGE-BOARD OVERTIME,**
 3 **SUNDAY RATES, AND OTHER PREMIUM**
 4 **PAY”**; and

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

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

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

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

15 “(B) is certified by the applicable agency to
 16 perform wildland fire incident-related duties during
 17 the period the employee is deployed to respond to a
 18 qualifying incident (as defined in section
 19 5545e(a)).”;

20 (2) in section 5547(a), in the matter preceding
 21 paragraph (1), by inserting “5545e,” after
 22 “5545a.”

23 (e) CLERICAL AMENDMENTS.—The table of sections
 24 for subchapter V of chapter 55 of title 5, United States
 25 Code, is amended—

1 (1) by amending the item relating to section
2 5544 to read as follows:

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

3 and

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

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

6 (d) **EFFECTIVE DATE.**—The amendments made by
7 this section shall take effect on the first day of the first
8 applicable pay period beginning on or after October 1,
9 2023.

10 **SEC. 4. REST AND RECUPERATION LEAVE FOR EMPLOYEES**
11 **ENGAGED IN WILDLAND FIREFIGHTING.**

12 (a) **IN GENERAL.**—Subchapter H of chapter 63 of
13 title 5, United States Code, is amended by adding at the
14 end the following:

15 **“§ 6329c. Rest and recuperation leave for employees**
16 **engaged in wildland firefighting**

17 “(a) **DEFINITIONS.**—In this section—

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

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

1 “(A) qualifies as a wildland firefighter
2 based on the definitions of the terms ‘fire-
3 fighter’ and ‘wildland firefighter’ in section
4 5332a(a) (applying the definition of ‘employee’
5 in section 6301(2) in lieu of the definition of
6 ‘employee’ in section 5331(a)); or

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

11 “(3) the term ‘qualifying incident’ has the
12 meaning given the term in section 5545e(a).

13 “(b) REST AND RECUPERATION LEAVE.—

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

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

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

1 “(A) a maximum period of days in which
2 a covered employee is deployed to respond to a
3 qualifying incident, which shall—

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

10 “(ii) be followed by a minimum num-
11 ber of days of rest and recuperation for the
12 covered employee; or

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

18 “(c) USE OF LEAVE.—

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

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

1 “(B) shall be paid in the same manner as
2 annual leave;

3 “(C) shall be used immediately after a
4 qualifying incident; and

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

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

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

11 “(1) shall be excused from duty during the
12 same period of time that other covered employees in
13 the same circumstances are entitled to rest and re-
14 cuperation leave; and

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

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—

19 The table of sections for subchapter II of chapter 63 of
20 title 5, United States Code, is amended by inserting after
21 the item relating to section 6329d the following:

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

22 **SEC. 5. TRANSFER AUTHORITY.**

23 Notwithstanding section 40803(e)(2) of the Infra-
24 structure Investment and Jobs Act (16 U.S.C.

1 6592(e)(2)), not more than \$5,000,000 of the unobligated
 2 balances of amounts made available under the heading
 3 “WILDLAND FIRE MANAGEMENT” under the heading
 4 “FOREST SERVICE” under the heading “DEPARTMENT
 5 OF AGRICULTURE” in title VI of division J of that Act
 6 (Public Law 117–58; 135 Stat. 1410) pursuant to section
 7 40803(e)(2)(B) of that Act (16 U.S.C. 6592(e)(2)(B))
 8 may, as necessary to continue uninterrupted the Federal
 9 wildland firefighter base salary increase described in sec-
 10 tion 40803(d)(4)(B) of that Act (16 U.S.C.
 11 6592(d)(4)(B)), be transferred to and merged with the
 12 amounts made available under the heading “WILDLAND
 13 FIRE MANAGEMENT” under the heading “DEPARTMENT-
 14 WIDE PROGRAMS” under the heading “DEPARTMENT
 15 OF THE INTERIOR” in title VI of division J of that
 16 Act (Public Law 117–58; 135 Stat. 1393).

17 **SECTION 1. SHORT TITLE.**

18 *This Act may be cited as the “Wildland Firefighter*
 19 *Paycheck Protection Act of 2023”.*

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

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

1 **“§ 5332a. Special base rates of pay for wildland fire-**
2 **fighters**

3 “(a) *DEFINITIONS.—In this section—*

4 “(1) *the term ‘firefighter’ means an employee*
5 *who—*

6 “(A) *is a firefighter within the meaning of*
7 *section 8331(21) or section 8401(14);*

8 “(B) *in the case of an employee who holds*
9 *a supervisory or administrative position and is*
10 *subject to subchapter III of chapter 83, but who*
11 *does not qualify to be considered a firefighter*
12 *within the meaning of section 8331(21), would*
13 *otherwise qualify if the employee had transferred*
14 *directly to that position after serving as a fire-*
15 *fighter within the meaning of that section;*

16 “(C) *in the case of an employee who holds*
17 *a supervisory or administrative position and is*
18 *subject to chapter 84, but who does not qualify*
19 *to be considered a firefighter within the meaning*
20 *of section 8401(14), would otherwise qualify if*
21 *the employee had transferred directly to that po-*
22 *sition after performing duties described in sec-*
23 *tion 8401(14)(A) for at least 3 years; or*

24 “(D) *in the case of an employee who is not*
25 *subject to subchapter III of chapter 83 or chapter*
26 *84, holds a position that the Office of Personnel*

1 *Management determines would satisfy subpara-*
2 *graph (A), (B), or (C) if the employee were sub-*
3 *ject to subchapter III of chapter 83 or chapter*
4 *84;*

5 “(2) the term ‘General Schedule base rate’ means
6 *an annual rate of basic pay established under section*
7 *5332 before any additions, such as a locality-based*
8 *comparability payment under section 5304 or 5304a*
9 *or a special rate supplement under section 5305;*

10 “(3) the term ‘special base rate’ means an an-
11 *nuual rate of basic pay payable to a wildland fire-*
12 *fighter, before any additions or reductions, that re-*
13 *places the General Schedule base rate otherwise appli-*
14 *cable to the wildland firefighter and that is adminis-*
15 *tered in the same manner as a General Schedule base*
16 *rate; and*

17 “(4) the term ‘wildland firefighter’ means a fire-
18 *fighter—*

19 “(A) *who is employed by the Forest Service*
20 *or the Department of the Interior; and*

21 “(B) *the duties of the position of whom re-*
22 *late primarily to wildland fires, as opposed to*
23 *structure fires.*

24 “(b) *SPECIAL BASE RATES OF PAY.—*

1 “(1) *ENTITLEMENT TO SPECIAL RATE.*—*Notwith-*
 2 *standing section 5332, a wildland firefighter is enti-*
 3 *tled to a special base rate at grades 1 through 15,*
 4 *which shall—*

5 “(A) *replace the otherwise applicable Gen-*
 6 *eral Schedule base rate for the wildland fire-*
 7 *fighter;*

8 “(B) *be basic pay for all purposes, includ-*
 9 *ing the purpose of computing a locality-based*
 10 *comparability payment under section 5304 or*
 11 *5304a; and*

12 “(C) *be computed as described in paragraph*
 13 *(2) and adjusted at the time of adjustments in*
 14 *the General Schedule.*

15 “(2) *COMPUTATION.*—

16 “(A) *IN GENERAL.*—*The special base rate*
 17 *for a wildland firefighter shall be derived by in-*
 18 *creasing the otherwise applicable General Sched-*
 19 *ule base rate for the wildland firefighter by the*
 20 *following applicable percentage for the grade of*
 21 *the wildland firefighter and rounding the result*
 22 *to the nearest whole dollar:*

23 “(i) *For GS-1, 42 percent.*

24 “(ii) *For GS-2, 39 percent.*

25 “(iii) *For GS-3, 36 percent.*

- 1 “(iv) For GS-4, 33 percent.
 2 “(v) For GS-5, 30 percent.
 3 “(vi) For GS-6, 27 percent.
 4 “(vii) For GS-7, 24 percent.
 5 “(viii) For GS-8, 21 percent.
 6 “(ix) For GS-9, 18 percent.
 7 “(x) For GS-10, 15 percent.
 8 “(xi) For GS-11, 12 percent.
 9 “(xii) For GS-12, 9 percent.
 10 “(xiii) For GS-13, 6 percent.
 11 “(xiv) For GS-14, 3 percent.
 12 “(xv) For GS-15, 1.5 percent.

13 “(B) *HOURLY, DAILY, WEEKLY, OR BI-*
 14 *WEEKLY RATES.*—When the special base rate
 15 with respect to a wildland firefighter is expressed
 16 as an hourly, daily, weekly, or biweekly rate, the
 17 special base rate shall be computed from the ap-
 18 propriate annual rate of basic pay derived under
 19 subparagraph (A) in accordance with the rules
 20 under section 5504(b).”.

21 (b) *CLERICAL AMENDMENT.*—The table of sections for
 22 subchapter III of chapter 53 of title 5, United States Code,
 23 is amended by inserting after the item relating to section
 24 5332 the following:

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

1 (c) *PREVAILING RATE EMPLOYEES.*—Section 5343 of
2 title 5, United States Code, is amended by adding at the
3 end the following:

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

14 “(2) An increased wage rate under paragraph (1) shall
15 be basic pay for the same purposes as the wage rate other-
16 wise established under this section.

17 “(3) An increase under this subsection may not cause
18 the wage rate of an employee to increase to a rate that
19 would produce an annualized rate in excess of the annual
20 rate for level IV of the Executive Schedule.”.

21 (d) *EFFECTIVE DATE.*—The amendments made by this
22 section shall take effect on the first day of the first applica-
23 ble pay period beginning on or after October 1, 2023.

24 (e) *APPLICABILITY.*—Notwithstanding section
25 40803(d)(4)(B) of the Infrastructure Investment and Jobs

1 *Act (16 U.S.C. 6592(d)(4)(B)), the salary increase in such*
2 *section shall not apply to the positions described in such*
3 *section for service performed on or after the effective date*
4 *described in subsection (d) of this section.*

5 **SEC. 3. WILDLAND FIRE INCIDENT RESPONSE PREMIUM**
6 **PAY.**

7 *(a) IN GENERAL.—Subchapter V of chapter 55 of title*
8 *5, United States Code, is amended by inserting after section*
9 *5545b the following:*

10 **“§5545c. Incident response premium pay for employ-**
11 **ees engaged in wildland firefighting**

12 *“(a) DEFINITIONS.—In this section—*

13 *“(1) the term ‘appropriate committees of Con-*
14 *gress’ means—*

15 *“(A) the Committee on Homeland Security*
16 *and Governmental Affairs of the Senate;*

17 *“(B) the Committee on Energy and Natural*
18 *Resources of the Senate;*

19 *“(C) the Committee on Agriculture, Nutri-*
20 *tion, and Forestry of the Senate;*

21 *“(D) the Committee on Appropriations of*
22 *the Senate;*

23 *“(E) the Committee on Oversight and Ac-*
24 *countability of the House of Representatives;*

1 “(F) the Committee on Agriculture of the
2 House of Representatives;

3 “(G) the Committee on Natural Resources of
4 the House of Representatives; and

5 “(H) the Committee on Appropriations of
6 the House of Representatives;

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

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

12 “(B) certified by the applicable agency to
13 perform wildland fire incident-related duties
14 during the period that employee is deployed to
15 respond to a qualifying incident;

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

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

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

24 “(A) means—

1 “(i) a wildfire incident, a prescribed
2 fire incident, or a severity incident; or

3 “(ii) an incident that the Secretary of
4 Agriculture or the Secretary of the Interior
5 determines is similar in nature to an inci-
6 dent described in clause (i); and

7 “(B) does not include an initial response
8 (including an initial attack fire) in which a
9 wildfire is contained within 36 hours; and

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

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

16 “(1) the covered employee is deployed to respond
17 to a qualifying incident; and

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

20 “(A) outside of the official duty station of
21 the covered employee; or

22 “(B) within the official duty station of the
23 covered employee and the covered employee is as-
24 signed to an incident-adjacent fire camp or other
25 designated field location.

1 “(c) *ENTITLEMENT TO INCIDENT RESPONSE PREMIUM*
2 *PAY.*—

3 “(1) *IN GENERAL.*—*A covered employee who sat-*
4 *isfies the conditions under subsection (b) is entitled to*
5 *premium pay for the period in which the covered em-*
6 *ployee is deployed to respond to the applicable quali-*
7 *fying incident.*

8 “(2) *COMPUTATION.*—

9 “(A) *FORMULA.*—*Subject to subparagraphs*
10 *(B) and (C), premium pay under paragraph (1)*
11 *shall be paid to a covered employee at a daily*
12 *rate of 450 percent of the hourly rate of basic*
13 *pay of the covered employee for each day that the*
14 *covered employee satisfies the requirements under*
15 *subsection (b), rounded to the nearest whole cent.*

16 “(B) *LIMITATION.*—*Premium pay under*
17 *this subsection—*

18 “(i) *with respect to a covered employee*
19 *for whom the annual rate of basic pay is*
20 *greater than that for step 10 of GS–10,*
21 *shall be paid at the daily rate established*
22 *under subparagraph (A) for the applicable*
23 *rate for step 10 of GS–10 (where the appli-*
24 *cable rate is the rate in effect in the same*
25 *locality that is the basis for a locality-based*

1 *comparability payment payable to the cov-*
2 *ered employee under section 5304); and*

3 “(ii) *may not be paid to a covered em-*
4 *ployee in a total amount that exceeds*
5 *\$9,000 in any calendar year.*

6 “(C) *ADJUSTMENTS.—*

7 “(i) *ASSESSMENT.—The Secretary of*
8 *Agriculture and the Secretary of the Inte-*
9 *rior shall assess the difference between the*
10 *average total amount of compensation that*
11 *was paid to covered employees, by grade, in*
12 *fiscal years 2023 and 2024.*

13 “(ii) *REPORT.—Not later than 180*
14 *days after the date that is 1 year after the*
15 *effective date of this section, the Secretary of*
16 *Agriculture and the Secretary of the Inte-*
17 *rior shall jointly publish a report on the re-*
18 *sults of the assessment conducted under*
19 *clause (i).*

20 “(iii) *ADMINISTRATIVE ACTIONS.—*
21 *After publishing the report required under*
22 *clause (ii), the Secretary of Agriculture and*
23 *the Secretary of the Interior, in consultation*
24 *with the Director of the Office of Personnel*
25 *Management, may, in the sole and exclusive*

1 *discretion of the Secretaries acting jointly,*
2 *administratively adjust the amount of pre-*
3 *mium pay paid under this subsection (or*
4 *take other administrative action) to ensure*
5 *that the average annual amount of total*
6 *compensation paid to covered employees, by*
7 *grade, is more consistent with such amount*
8 *that was paid to those employees in fiscal*
9 *year 2023.*

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

19 “(d) *TREATMENT OF INCIDENT RESPONSE PREMIUM*
20 *PAY.—Incident response premium pay under this section—*

21 “(1) *is not considered part of the basic pay of*
22 *a covered employee for any purpose;*

23 “(2) *may not be considered in determining the*
24 *lump-sum payment of a covered employee for accu-*

1 *mulated and accrued annual leave under section 5551*
 2 *or section 5552;*

3 *“(3) may not be used in determining pay under*
 4 *section 8114;*

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

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

12 *(b) ADDITIONAL PREMIUM PAY AMENDMENTS.—Sub-*
 13 *chapter V of chapter 55 of title 5, United States Code, is*
 14 *amended—*

15 *(1) in section 5544—*

16 *(A) by amending the section heading to*
 17 *read as follows: “**WAGE-BOARD OVERTIME,***
 18 ***SUNDAY RATES, AND OTHER PREMIUM***
 19 ***PAY”;*** and

20 *(B) by adding at the end the following:*

21 *“(d) A prevailing rate employee described in section*
 22 *5342(a)(2)(A) shall receive incident response premium pay*
 23 *under the same terms and conditions that apply to a cov-*
 24 *ered employee under section 5545c if that employee—*

1 “(1) is employed by the Forest Service or the De-
2 partment of the Interior; and

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

5 “(B) is certified by the applicable agency to per-
6 form wildland fire incident-related duties during the
7 period the employee is deployed to respond to a quali-
8 fying incident (as defined in section 5545c(a)).”; and

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

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

14 (1) by amending the item relating to section
15 5544 to read as follows:

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

16 and

17 (2) by inserting after the item relating to section
18 5545b the following:

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

19 (d) *EFFECTIVE DATE.*—The amendments made by this
20 section shall take effect on the first day of the first applica-
21 ble pay period beginning on or after October 1, 2023.

1 **SEC. 4. REST AND RECUPERATION LEAVE FOR EMPLOYEES**
2 **ENGAGED IN WILDLAND FIREFIGHTING.**

3 (a) *IN GENERAL.*—Subchapter II of chapter 63 of title
4 5, United States Code, is amended by adding at the end
5 the following:

6 **“§ 6329e. Rest and recuperation leave for employees**
7 **engaged in wildland firefighting**

8 “(a) *DEFINITIONS.*—In this section—

9 “(1) the term ‘applicable Secretary’ means the
10 Secretary of Agriculture or the Secretary of the Inte-
11 rior, as applicable to a covered employee;

12 “(2) the term ‘covered employee’ means an em-
13 ployee of the Forest Service or the Department of the
14 Interior who—

15 “(A) qualifies as a wildland firefighter
16 based on the definitions of the terms ‘firefighter’
17 and ‘wildland firefighter’ in section 5332a(a)
18 (applying the definition of ‘employee’ in section
19 6301(2) in lieu of the definition of ‘employee’ in
20 section 5331(a)); or

21 “(B) is certified by the applicable Secretary
22 to perform wildland fire incident-related duties
23 during the period the employee is deployed to re-
24 spond to a qualifying incident; and

25 “(3) the term ‘qualifying incident’ has the mean-
26 ing given the term in section 5545c(a).

1 “(b) *REST AND RECUPERATION LEAVE.*—

2 “(1) *IN GENERAL.*—*A covered employee may re-*
3 *ceive paid rest and recuperation leave following the*
4 *completion of service in which the covered employee is*
5 *deployed to respond to a qualifying incident, subject*
6 *to the policies prescribed under this subsection.*

7 “(2) *PRESCRIPTION OF POLICIES.*—*The Sec-*
8 *retary of Agriculture and the Secretary of the Interior*
9 *shall, in the sole and exclusive discretion of the Secre-*
10 *taries acting jointly, prescribe uniform policies de-*
11 *scribed in paragraph (1) after consulting with the*
12 *other applicable Secretary.*

13 “(3) *CONTENT OF POLICIES.*—*The policies pre-*
14 *scribed under paragraph (2) may include—*

15 “(A) *a maximum period of days in which*
16 *a covered employee is deployed to respond to a*
17 *qualifying incident, which shall—*

18 “(i) *begin on the date on which the*
19 *covered employee departs from the official*
20 *duty station of the covered employee and*
21 *end on the date on which the covered em-*
22 *ployee returns to the official duty station of*
23 *the covered employee; and*

1 “(ii) be followed by a minimum num-
2 ber of days of rest and recuperation for the
3 covered employee; or

4 “(B) a requirement that prohibits a covered
5 employee from working more than 16 hours per
6 day on average over a 14-day period during
7 which the covered employee is deployed to re-
8 spond to a qualifying incident.

9 “(c) *USE OF LEAVE.*—

10 “(1) *IN GENERAL.*—Rest and recuperation leave
11 granted under this section—

12 “(A) shall be used during scheduled hours
13 within the tour of duty of the applicable covered
14 employee established for leave-charging purposes;

15 “(B) shall be paid in the same manner as
16 annual leave;

17 “(C) shall be used immediately after a
18 qualifying incident; and

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

20 “(2) *NO PAYMENT.*—A covered employee may not
21 receive any payment for unused rest and recuperation
22 leave granted under this section.

23 “(d) *INTERMITTENT WORK SCHEDULE.*—A covered
24 employee with an intermittent work schedule—

1 “(1) shall be excused from duty during the same
2 period of time that other covered employees in the
3 same circumstances are entitled to rest and recuper-
4 ation leave; and

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

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

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

12 **SEC. 5. TRANSFER AUTHORITY.**

13 Notwithstanding section 40803(c)(2) of the *Infrastruc-*
14 *ture Investment and Jobs Act (16 U.S.C. 6592(c)(2))*, not
15 more than \$5,000,000 of the unobligated balances of
16 amounts made available under the heading “WILDLAND
17 FIRE MANAGEMENT” under the heading “FOREST SERVICE”
18 under the heading “DEPARTMENT OF AGRICULTURE”
19 in title VI of division J of that Act (Public Law 117–58;
20 135 Stat. 1410) pursuant to section 40803(c)(2)(B) of that
21 Act (16 U.S.C. 6592(c)(2)(B)) may, as necessary to con-
22 tinue uninterrupted the Federal wildland firefighter base
23 salary increase described in section 40803(d)(4)(B) of that
24 Act (16 U.S.C. 6592(d)(4)(B)), be transferred to and

1 merged with the amounts made available under the heading
2 “WILDLAND FIRE MANAGEMENT” under the heading “DE-
3 PARTMENT-WIDE PROGRAMS” under the heading “DE-
4 PARTMENT OF THE INTERIOR” in title VI of division
5 J of that Act (Public Law 117–58; 135 Stat. 1393).

Calendar No. 205

118TH CONGRESS
1ST Session

S. 2272

[Report No. 118-97]

A BILL

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

SEPTEMBER 11, 2023

Reported with an amendment