

Calendar No. 205

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
118-97

WILDLAND FIREFIGHTER PAYCHECK
PROTECTION ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2272

TO AMEND TITLE 5, UNITED STATES CODE, TO PROVIDE
FOR SPECIAL BASE RATES OF PAY FOR WILDLAND FIREFIGHTERS,
AND FOR OTHER PURPOSES



SEPTEMBER 11, 2023.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

39-010

WASHINGTON : 2023

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

GARY C. PETERS, Michigan, *Chairman*

THOMAS R. CARPER, Delaware	RAND PAUL, Kentucky
MAGGIE HASSAN, New Hampshire	RON JOHNSON, Wisconsin
KYRSTEN SINEMA, Arizona	JAMES LANKFORD, Oklahoma
JACKY ROSEN, Nevada	MITT ROMNEY, Utah
ALEX PADILLA, California	RICK SCOTT, Florida
JON OSSOFF, Georgia	JOSH HAWLEY, Missouri
RICHARD BLUMENTHAL, Connecticut	ROGER MARSHALL, Kansas

DAVID M. WEINBERG, *Staff Director*

LENA C. CHANG, *Director of Governmental Affairs*

DEVIN M. PARSONS, *Professional Staff Member*

WILLIAM E. HENDERSON III, *Minority Staff Director*

CHRISTINA N. SALAZAR, *Minority Chief Counsel*

ANDREW J. HOPKINS, *Minority Counsel*

LAURA W. KILBRIDE, *Chief Clerk*

Calendar No. 205

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 118-97

WILDLAND FIREFIGHTER PAYCHECK PROTECTION ACT

SEPTEMBER 11, 2023.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2272]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2272), to amend title 5, United States Code, to provide for special base rates of pay for wildland firefighters, and for other purposes, having considered the same, reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	5
IV. Section-by-Section Analysis of the Bill, as Reported	6
V. Evaluation of Regulatory Impact	8
VI. Congressional Budget Office Cost Estimate	9
VII. Changes in Existing Law Made by the Bill, as Reported	11

I. PURPOSE AND SUMMARY

S. 2272, the *Wildland Firefighter Paycheck Protection Act of 2023*, addresses an impending pay cliff for federal wildland firefighters at the end of fiscal year 2023, when certain enhanced pay provisions within the bipartisan *Infrastructure Investment and Jobs Act* (IIJA) expire. This bill establishes a new pay scale for wildland firefighters at all grade levels, which would factor into their retirement calculations. In addition, the bill requires the Department of Agriculture’s Forest Service (the Forest Service) and the Department of the Interior (DOI) to distribute daily pay supplements to employees working on long-duration wildfires, prescribed

fires, and severity incidents. The bill further establishes rest and recuperation leave for employees engaged in fighting wildfires and grants the Secretary of the Interior the authority to use Forest Service funds as needed to ensure no federal wildland firefighter loses the IIJA pay increase before the pay provisions of this bill take effect at the beginning of fiscal year 2024.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Wildland fires are a persistent threat across the United States, growing in size, severity, and duration. Wildfires can be human-caused or naturally occurring and burn in natural areas such as forests, grasslands, or prairies.¹ Fires have engulfed millions of acres of wildlands over the past decade, causing extensive and widespread damage.²

Since 2000, an average of over 70,000 wildfires each year burn through a yearly average of 7 million acres across the nation, more than double the rates in the 1990s.³ Between 2017 and 2021, wildfires annually destroyed over 12,000 homes, businesses, and other structures on average, more than triple the average annual number of structures destroyed in the preceding five-year period.⁴ According to data from the National Oceanic and Atmospheric Administration, wildfires caused \$81.6 billion of damage from 2017 to 2021, nearly 10 times the \$8.6 billion of damage caused from 2012 to 2016.⁵ Increasingly, this destruction is not limited by geography. A University of Boulder study on wildfire frequency, size, and scope found that in the last 13 years, fire frequency doubled on the West and East Coasts and quadrupled in the Great Plains region.⁶ In 2023, smoke from Canadian wildfires has repeatedly reduced air quality to unsafe levels for millions of individuals in the Northeast and Great Lakes regions.⁷

To manage and combat the threat of wildfires, the Forest Service and DOI employ the services of federal firefighters to respond to wildfires that begin on federal lands and lands protected by federal agencies under cooperative agreements with states.⁸ In 2022, the federal wildland firefighting workforce comprised nearly 19,000 individuals deployed nationwide, including fire management and support staff. The U.S. Department of Agriculture (USDA) employs

¹Cybersecurity & Infrastructure Security Agency, Wildfires (www.cisa.gov/topics/critical-infrastructure-security-and-resilience/extreme-weather-and-climate-change/wildfires) (accessed Aug. 1, 2023).

²See, e.g., NASA Earthdata, Wildfires (earthdata.nasa.gov/learn/toolkits/wildfires) (accessed Aug. 3, 2023); and National Interagency Coordination Center, *Wildland Fire Summary and Statistics Annual Report 2022* (www.nifc.gov/sites/default/files/NICC/2-Predictive%20Services/Intelligence/Annual%20Reports/2022/annual_report.2.pdf).

³National Interagency Fire Center, Wildfires and Acres (www.nifc.gov/fire-information/statistics/wildfires) (accessed Aug. 2, 2023); Congressional Research Service, *Wildfire Statistics* (IF10244) (Jun. 1, 2023).

⁴Headwaters Economics, *Wildfires destroy thousands of structures each year* (Nov. 2020; Updated Aug. 2022) (headwaterseconomics.org/natural-hazards/structures-destroyed-by-wildfire/).

⁵NOAA National Centers for Environmental Information, Billion-Dollar Weather and Climate Disasters (www.ncei.noaa.gov/access/billions) (accessed Aug. 3, 2023); Cybersecurity & Infrastructure Security Agency, *supra* note

⁶Virginia Iglesias, Jennifer K. Balch, and William R. Travis, *U.S. Fires Became Larger, More Frequent, and More Widespread in the 2000s*, *Science Advances* (Mar. 16, 2022) (www.science.org/doi/10.1126/sciadv.abc0020); Cybersecurity & Infrastructure Security Agency, *supra* note 1.

⁷NOAA National Centers for Environmental Information, *Assessing the U.S. Climate in June 2023: Record-breaking heat waves hit portions of the U.S. during June* (Jul. 11, 2023) (www.ncei.noaa.gov/news/national-climate-202306#:~:text=A%20heat%20wave%20brought%20record,parts%20of%20the%20southern%20Plains).

⁸Congressional Research Service, *Wildfire Statistics* (IF10244) (Jun. 1, 2023).

70% of federal wildland firefighters through the Forest Service, and DOI employs the remaining 30%. The agencies classify wildland firefighters into permanent full-time, permanent-seasonal, or temporary-seasonal positions ranging from entry-level crewmen to highly skilled hotshot crew members, among other specializations.⁹ These wildland firefighters work from the ground and air in dangerous and challenging conditions to control and suppress wildfires.¹⁰

The increasing danger, severity, and frequency of wildfires are placing new challenges on the federal wildland firefighter workforce. In June 2023, the Senate Committee on Energy and Natural Resources held a hearing entitled “Hearing to Examine the Federal Response to Escalating Wildfires and to Evaluate Reforms to Land Management and Wildland Firefighter Recruitment and Retention.”¹¹ In his written testimony, Jeffery Rupert, Director of the Office of Wildland Fire at DOI, stated:

The demands on the wildland fire workforce continue to grow as the complexity and need for more active management increases. Many wildland firefighters are currently challenged to take time off for family events and other life occurrences because the current workforce lacks enough qualified individuals to fill behind them.¹²

Through her testimony, Jaelith Hall-Rivera, Deputy Chief of State, Private, and Tribal Forestry at the Forest Service, added, “As the complexity of the firefighting environment grows exponentially, our recruitment and retention of firefighters has been further complicated by our inability to offer a competitive wage for permanent and seasonal employees.”¹³

An insufficient federal workforce to fight wildland fires increases costs to agencies through the need to reimburse states for the use of non-federal firefighting organizations to respond to wildfires. In fiscal year 2022, the Forest Service paid states nearly \$470 million for wildfire suppression activities that mostly occurred in the prior fiscal year. This amount is 70% higher than the amount the Forest Service paid to states in fiscal year 2021 for suppression activities. DOI paid states \$91 million in reimbursements for wildfire suppression activities in fiscal year 2021.¹⁴

⁹ Government Accountability Office, *Wildland Fire: Barriers to Recruitment and Retention of Federal Wildland Firefighters* (GAO-23-105517) (Nov. 17, 2022).

¹⁰ U.S. Department of Agriculture, Forest Service, People Working in Fire (www.fs.usda.gov/science-technology/fire/people) (accessed Aug. 2, 2023).

¹¹ Senate Committee on Energy and Natural Resources, *Hearing to Examine the Federal Response to Escalating Wildfires and to Evaluate Reforms to Land Management and Wildland Firefighter Recruitment and Retention*, 118th Cong. (June 8, 2023) (S. Hrg. 118-XX).

¹² Senate Committee on Energy and Natural Resources, Testimony Submitted for the Record of Jeffrey Rupert, Director of the Office of Wildland Fire, United States Department of Interior, *Hearing to Examine the Federal Response to Escalating Wildfires and to Evaluate Reforms to Land Management and Wildland Firefighter Recruitment and Retention*, 118th Cong. (June 8, 2023) (S. Hrg. 118-XX).

¹³ Senate Committee on Energy and Natural Resources, Testimony Submitted for the Record of Jaelith Hall-Rivera, Deputy Chief of State, Private, and Tribal Forestry, United States Department of Agriculture Forest Service, *Hearing to Examine the Federal Response to Escalating Wildfires and to Evaluate Reforms to Land Management and Wildland Firefighter Recruitment and Retention*, 118th Cong. (June 8, 2023) (S. Hrg. 118-XX).

¹⁴ Production from the Department of the Interior, U.S. Department of Agriculture, and Office of Management and Budget to Senate Homeland Security and Governmental Affairs Committee Production, *Joint Response to RFIs from May 24, 2023 Briefing to HSGAC Staff* (June 28, 2023) (copy on file with Committee).

In November 2022, the Government Accountability Office (GAO) released findings after examining federal agencies' efforts to hire and retain wildland firefighters. The report highlighted several barriers to wildland firefighter recruitment and retention, such as a lack of career advancement opportunities, poor work-life balance, mental health challenges, and expensive duty stations. Notably, GAO found that the agencies most commonly cited "low pay" as a central recruitment and retention obstacle. Current pay for federal wildland firefighters starts at \$15 per hour for entry-level positions. Although there is the opportunity for overtime and additional hazard pay, officials and stakeholders surveyed by GAO described cases in which the same individuals can earn more at non-federal firefighting entities or at entry-level positions in less dangerous fields, such as food service.¹⁵

Further, federal wildland firefighters face a significant pay cliff at the end of Fiscal Year 2023 unless Congress passes legislation to address it. In 2021, Congress passed provisions within the bipartisan IIJA that appropriated \$600 million for the salaries and expenses of wildland firefighters. This appropriation provided \$480 million to the Forest Service and \$120 million to DOI starting in fiscal year 2022 through the end of fiscal year 2026 or until the depletion of the funds.¹⁶ The IIJA required the Forest Service and DOI to use this funding to increase firefighter salaries by the lesser of \$20,000 or 50% of base salary in locations where it is difficult to recruit or retain wildland firefighters.¹⁷ In implementing the IIJA pay provisions, the Forest Service and DOI, in coordination with the Office of Personnel Management (OPM), determined that wildland firefighter recruitment and retention challenges exist in every geographic area.¹⁸ The \$600 million appropriated by IIJA for the pay increase will run out by the end of fiscal year 2023 unless Congress passes further legislation.¹⁹

Because of the expiring temporary pay provisions in the IIJA, thousands of federal wildland firefighters may soon exit their positions at a time when wildfires pose an increasing threat to the nation. When asked about the impact of the looming pay cuts at the June 2023 Senate hearing, Forest Service Deputy Chief Hall-Rivera said that an estimated "30% to 50% of our firefighting workforce would leave the service and go elsewhere" and "[w]e are starting to see some resignations now." Hall-Rivera also noted that "[w]e would lose those folks who are leaders in the fire service, who have the most institutional knowledge, and that would be incredibly difficult for us to replace, because it takes years and years of experience to get that kind of knowledge and expertise."²⁰

The *Wildland Firefighter Paycheck Protection Act* would address the impending wildland firefighter pay cliff and the high rate of at-

¹⁵ Government Accountability Office, *supra* note 9.

¹⁶ Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58, Sec. 40803(c)(2).

¹⁷ Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58, Sec. 40803(d).

¹⁸ U.S. Department of Agriculture, Department of the Interior, and Office of Personnel Management, *Frequently Asked Questions: Implementation of Section 40803 of the Bipartisan Infrastructure Law (Public Law 117-58)* (June 21, 2022) (www.doi.gov/sites/doi.gov/files/interagency-faqs-implementation-of-bipartisan-infrastructure-law-section-40803.pdf).

¹⁹ The White House: *Fact Sheet: Biden-Harris Administration Announces New Pay Raises & Supports for Wildland Firefighter Workforce from Bipartisan Infrastructure Law* (June 21, 2022); *The Biden Team Announces Pay Raises of Up to \$20,000 Annually for Federal Firefighters*, Government Executive (June 21, 2022) (www.govexec.com/pay-benefits/2022/06/biden-team-announces-pay-raises-20000-annually-federal-firefighters/368401/).

²⁰ Senate Committee on Energy and Natural Resources, *supra* note 12.

trition expected as a result of the pay cliff by establishing a permanent, updated pay scale for wildland firefighters at all grade levels. This approach would improve upon the pay bump created in the IIJA by providing wildland firefighters with a reliable compensation level and factoring the base pay increases toward retirement calculations, incentivizing retention. Instead of a 50% or \$20,000 pay raise across the board, the pay scale in this bill increases base pay by a percentage ranging from 1.5% at the GS-15 level to 42% at the GS-1 level to better align with recruitment needs. Federal wildland firefighters would also earn daily supplements while deployed through the incident response premium pay established by the bill. The combination of the base pay increase and incident response premium pay would enable firefighters to reach a total compensation level equivalent to the IIJA level of a pay bump. In addition, the incident response premium pay would provide a financial benefit to the broader range of certified individuals employed by USDA or DOI who assist in wildland fire responses. Furthermore, the rest and recuperation leave provisions of the bill would help improve retention by ensuring better support for wildland firefighter physical and mental well-being following a deployment.

III. LEGISLATIVE HISTORY

Senator Kyrsten Sinema (I-AZ) introduced S. 2272, the *Wildland Firefighter Paycheck Protection Act of 2023*, on July 12, 2023, with original cosponsors Senators John Barrasso (R-WY), Joe Manchin (D-WV), Steve Daines (R-MT), Alex Padilla (D-CA), and Jon Tester (D-MT). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 2272 at a business meeting on July 19, 2023. At the business meeting, Senator Sinema offered a substitute amendment to the bill and a modification to the substitute amendment. The substitute amendment made technical clarifications to the text regarding a reference to locality pay and the process for the relevant Secretaries to prescribe uniform policies related to rest and recuperation leave. The modification made further technical adjustments, such as to the phrasing related to the description of wildland fires and computing of incident response premium pay. The Committee adopted the modification to the Sinema substitute amendment and the Sinema substitute amendment, as modified, by unanimous consent, with Senators Peters, Hassan, Sinema, Padilla, Ossoff, Blumenthal, Paul, Lankford, Romney, Scott, and Hawley present.

At the same business meeting, Senator Paul offered an amendment to sunset the provisions of the *Wildland Firefighter Paycheck Protection Act* two years after the bill's enactment. The Committee did not adopt the Paul amendment, by a roll call vote of 4 yeas to 11 nays, with Senators Paul and Scott voting in the affirmative, and Senators Peters, Hassan, Sinema, Padilla, Ossoff, Blumenthal, Lankford, Romney, and Hawley voting in the negative. Senators Johnson and Marshall voted yea by proxy, and Senators Carper and Rosen voted nay by proxy.

The bill, as amended, was ordered reported favorably by roll call vote of 10 yeas to 1 nay, with Senators Peters, Hassan, Sinema, Padilla, Ossoff, Blumenthal, Lankford, Romney, Scott, and Hawley voting in the affirmative and Senator Paul voting in the negative.

Senators Carper, Rosen, Johnson, and Marshall voted yea by proxy, for the record only.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Wildland Firefighter Paycheck Protection Act of 2023.”

Section 2. Special base rates of pay for wildland firefighters

Subsection (a) adds a new section 5332a to subchapter III of chapter 53 of title 5, United States Code, to establish special rates of pay for federal wildland firefighters.

Subsection (a) of section 5332a defines the terms “firefighter,” “General Schedule base rate,” “special base rate,” and “wildland firefighter” for the purposes of this section. “Firefighter” is defined in connection to positions covered by federal retirement law under chapter 83 or chapter 84 of title 5, United States Code.

Subsection (b) of section 5332a establishes special base rates of pay for wildland firefighters, computed by increasing the General Schedule base rate for wildland firefighters by a specified percentage at grades 1 through 15. The applicable percentage decreases as the grade level increases, ranging from 42% at the GS–1 level to 1.5% at the GS–15 level. The subsection clarifies that the special base rates of pay for wildland firefighters are basic pay for all purposes, such as for retirement calculations and computing locality-based pay. Adjustments to the special base rates of pay would occur at the same time as adjustments to the General Schedule.

Subsection (b) amends the table of sections for chapter 53 of title 5, United States Code, to include section 5332a, as added by this bill.

Subsection (c) adds language to the end of section 5343 of title 5, United States Code, to direct the Secretary of Agriculture and Secretary of the Interior to increase the wage rates of prevailing rate employees who are wildland firefighters by an amount consistent with the special base rates established under section 5332a.

Subsection (d) establishes that the provisions of this section would take effect on the first day of the first applicable pay period beginning on or after October 1, 2023.

Subsection (e) clarifies that the pay bump for wildland firefighters included in the IIJA would no longer apply to services performed on or after the effective date of the special base rates of pay for wildland firefighters established by this bill.

Section 3. Wildland fire incident response premium pay

Subsection (a) adds a new section 5545c to subchapter V of chapter 55 of title 5, United States Code, to establish incident response premium pay for employees engaged in wildland firefighting.

Subsection (a) of section 5545c defines the terms “appropriate committees of Congress,” “covered employee,” “incident response premium pay,” “prescribed fire incident,” “qualifying incident,” and “severity incident” for the purposes of this section. Covered employees are wildland firefighters or other employees at USDA or DOI who are certified to perform wildland fire incident-related duties while deployed to respond to a qualifying incident. Qualifying inci-

dents take longer than 36 hours to contain and include wildfire incidents, prescribed fire incidents, severity incidents, or other incidents that the applicable Secretary determines are similar in nature.

Subsection (b) of section 5545c establishes that covered employees are eligible for incident response premium pay if they are deployed outside of their official duty station to respond to a qualifying incident or assigned to an incident-adjacent fire camp or other designated field location within their duty station.

Subsection (c) of section 5545c entitles eligible employees to incident response premium pay for the duration of their deployments to qualifying incidents. The daily rate of premium pay is equal to 450% of the employee's hourly rate of basic pay, capped at the maximum daily rate for the GS-10, step-10 level under such formula in the same locality. The amount of incident response premium pay that an eligible employee can receive in one calendar year is capped at \$9,000.

In addition, subsection (c) of 5545c requires the Secretary of Agriculture and Secretary of the Interior to assess the difference between the average total compensation for covered employees in fiscal year 2024 compared to the average in fiscal year 2023. This will result in a comparison between the pay provisions established by this bill and the pay provisions established by the IIJA. The Secretaries must publish a report on this comparison within 180 days after the end of fiscal year 2024. Based on the findings of the report and in consultation with the Director of OPM, the Secretaries may administratively adjust the amount of incident response premium pay so that the annual average of total compensation is more consistent with the average in fiscal year 2023. The Secretaries must notify Congress about any adjustment within three days.

Subsection (d) of section 5545c clarifies that the incident response premium pay is not considered part of an employee's basic pay for any purpose, including for retirement calculations. The premium pay also may not factor into payments or calculations related to accumulated and accrued leave, workers compensation, paid leave, minimum wage, and overtime pay.

Subsection (b) makes additional amendments to chapter 55 of title 5, United States Code, to ensure prevailing rate employees who are wildland firefighters or certified to perform wildland fire incident-related duties are eligible for incident response premium pay and to clarify that incident response premium pay factors into limitations on total premium pay.

Subsection (c) amends the table of sections for chapter 55 of title 5, United States Code, to include section 5545c, as added by this bill, and to adjust a section heading.

Subsection (d) establishes that the provisions of this section would take effect on the first day of the first applicable pay period beginning on or after October 1, 2023.

Section 4. Rest and recuperation leave for employees engaged in wildland firefighting

Subsection (a) adds a new section 6329e to subchapter II of chapter 63 of title 5, United States Code, to establish rest and recuperation leave for employees after deployments to fight wildfires.

Subsection (a) of section 6329e defines the terms “applicable Secretary,” “covered employee,” and “qualifying incident.”

Subsection (b) of section 6329e establishes that covered employees may receive paid rest and recuperation leave following a deployment to a qualifying incident. The subsection directs the Secretary of Agriculture and Secretary of the Interior to prescribe uniform policies regarding the maximum lengths of deployments, maximum number of hours worked during a deployment, and minimum periods of rest between deployments.

Subsection (c) specifies that rest and recuperation leave would be paid in the same manner as annual leave. Covered employees must use rest and recuperation leave immediately after a qualifying incident.

Subsection (d) addresses how rest and recuperation leave applies to covered employees with intermittent work schedules.

Subsection (b) amends the table of sections for chapter 63 of title 5, United States Code, to include section 6329e, as added by this bill.

Section 5. Transfer authority

This section authorizes USDA to transfer up to \$5 million of unobligated funding appropriated in the IIJA to DOI as needed to ensure no wildland firefighters lose the IIJA pay bump before the pay provisions established by this bill take effect at the beginning of fiscal year 2024.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

At a Glance			
S. 2272, Wildland Firefighter Paycheck Protection Act of 2023			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 19, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	2,290	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would:

- Permanently increase the pay scale for federal wildland firefighters
- Establish premium pay for workers that respond to wild-fire incidents
- Require the Forest Service and the Department of the Interior to develop and implement policies concerning rest and recuperation for federal wildfire responders

Estimated budgetary effects would mainly stem from:

- Increased pay for federal wildland firefighters
- Premium pay for wildfire incident response

Areas of significant uncertainty include:

- Identifying the number and length of wildland fire incidents that would result in premium pay for responders

Bill summary: S. 2272 would permanently increase the pay scale for federal wildland firefighters under the jurisdiction of the Forest Service (within the Department of Agriculture) or the Department of the Interior (DOI) and would authorize a daily supplemental payment (referred to as premium pay) for wildland federal firefighters and related employees who respond to wildland fires in specific circumstances. The new pay scales and supplemental payments would take effect on October 1, 2023. Salaries for wildland firefighters were temporarily increased during fiscal year 2023 under provisions of the Infrastructure Investment and Jobs Act.

S. 2272 also would require the Forest Service and DOI to jointly develop and implement policies for maximum length of deployment, maximum hours worked, and minimum periods of rest between deployments.

In addition, following completion of the first year under the increased pay scale, the bill would require the Secretaries of Agriculture and the Interior to assess and report to the Congress on the difference between the average total compensation paid to wildland firefighters in fiscal years 2023 and 2024. After completing the as-

assessment, the Secretaries would be authorized to administratively adjust compensation to be more consistent with total compensation paid to wildland firefighters in 2023. If any such adjustments are made, the Secretaries would be required to report those adjustments to the Congress.

Estimated Federal cost: The estimated budgetary effect of S. 2272 is shown in Table 1. The costs of the legislation fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 2272

	By fiscal year, millions of dollars—						2023–2028
	2023	2024	2025	2026	2027	2028	
Permanently Increased Pay Scale							
Estimated Authorization	0	317	332	345	357	369	1,720
Estimated Outlays	0	253	329	342	355	367	1,646
Premium Pay for Wildland Fire Incident Response							
Estimated Authorization	0	124	130	135	140	143	672
Estimated Outlays	0	99	129	134	139	143	644
Total Changes							
Estimated Authorization	0	441	462	480	497	512	2,392
Estimated Outlays	0	352	458	476	494	510	2,290

Basis of estimate: For this estimate, CBO assumes that S. 2272 will be enacted near the end of fiscal year 2023 and that implementation timelines generally follow the requirements specified in the bill, which would take effect on October 1, 2023. Outlay estimates are based on historical spending patterns for similar activities, and any spending would be subject to appropriations.

Spending Subject to Appropriation: CBO estimates that the bill would cost about \$2.3 billion over the 2024–2028 period (see Table 1).

Permanently Increased Pay Scale: S. 2272 would permanently increase base pay for federal wildland firefighters under the jurisdiction of the Forest Service and DOI. Increases to the pay scale for workers under the General Schedule (GS) would be set at specific percentages varying by grade (GS–1 would receive the largest increase at 42 percent and GS–15 would receive the smallest at 1.5 percent). Pay increases for wildland firefighters outside the GS system would be calculated by annualizing their current pay and applying an equivalent increase for a similar GS grade. Those pay increases would be capped at the annual rate for the Executive Schedule level IV, currently \$183,500.

Using information from the Forest Service and DOI, CBO expects that almost 13,000 firefighters in the Forest Service and about 4,500 DOI firefighters would receive a permanent increase in their base rate of pay. CBO estimates that the total cost of those increases (including pay increases and associated increases in employee benefits) would be about \$1.6 billion over the 2024–2028 period.

Premium Pay for Wildland Fire Incident Response: S. 2272 also would establish a daily pay premium of 4.5 times the regular hourly rate for Forest Service and DOI wildland firefighters and related employees responding to certain wildfires. The premium pay would be allotted by those agencies to responders deployed for long-duration wildfires, working on prescribed fires, or deployed away from

their duty station to pre-position in an area at high risk of fire. Such payments would be capped at about \$160 per day, or \$9,000 annually.

Using information from the agencies, CBO estimates that about 20,000 firefighters in the Forest Service and more than 8,000 responders with DOI would receive the premium pay and associated benefits in any year, at a total cost of \$644 million over the 2024–2028 period.

Transfer Authority: S. 2272 also would authorize the transfer of up to \$5 million from amounts appropriated to the Forest Service under title VI of division J of the Infrastructure Investment and Jobs Act and make those funds available to DOI for wildland fire management activities. (That act designated those amounts as an emergency requirement.) CBO expects that the transferred funds would be spent at the same rate as they would be under current law; thus, CBO estimates that the transfer would have no net effect on the federal budget.

Reporting and Administrative Requirements: S. 2272 would require the Forest Service and DOI to jointly develop and implement policies related to firefighters' length of deployment, hours worked, and periods of rest between deployments. The bill also would require the agencies to report to the Congress on their assessment of the difference between the average total compensation paid to wildland firefighters in fiscal years 2023 and 2024.

Using information on the costs of similar activities, CBO estimates that the cost of meeting those requirements would be less than \$500,000 over the 2024–2028 period.

Uncertainty: The budgetary effects of the bill's premium pay for wildfire incident response would depend on accurately predicting the number and length of qualifying incidents that would occur in any year. Costs of S. 2272 could be moderately larger or smaller than this estimate if the number of qualifying wildfire incidents is more or less, respectively, in future years than CBO estimates.

Pay-As-You-Go considerations: None.

Increase in long-term net direct spending and deficits: None.

Mandates: None.

Estimate prepared by: Federal Costs: Lilia Ledezma, Mandates: Andrew Laughlin.

Estimate reviewed by: Robert Reese, Principal Analyst, Natural and Physical Resources Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; Christina Hawley Anthony, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in *roman*):

UNITED STATES CODE

* * * * *

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

PART III—EMPLOYEES

* * * * *

Subpart D—Pay and Allowances

* * * * *

CHAPTER 53—PAY RATES AND SYSTEMS

Table of sections
Subchapter I—Pay Comparability System
Sec.

* * * * *

Subchapter III—General Schedule Pay Rates

5331. * * *

5332. The General Schedule.

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

* * * * *

Subchapter III—General Schedule Pay Rates

* * * * *

SEC. 5332a. SPECIAL BASE RATES OF PAY FOR WILDLAND FIRE-FIGHTERS.

(a) *DEFINITIONS.—In this section—*

(1) *the term “firefighter” means an employee who—*

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

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

(C) *in the case of an employee who holds a supervisory or administrative position and is subject to chapter 84, but who does not qualify to be considered a firefighter within the meaning of section 8401(14), would otherwise qualify if the employee had transferred directly to that position after performing duties described in section 8401(14)(A) for at least 3 years; or*

(D) *in the case of an employee who is not subject to subchapter III of chapter 83 or chapter 84, holds a position that the Office of Personnel Management determines would satisfy subparagraph (A), (B), or (C) if the employee were subject to subchapter III of chapter 83 or chapter 84;*

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

(3) the term “special base rate” means an annual rate of basic pay payable to a wildland firefighter, before any additions or reductions, that replaces the General Schedule base rate otherwise applicable to the wildland firefighter and that is administered in the same manner as a General Schedule base rate; and

(4) the term “wildland firefighter” means a firefighter—

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

(B) the duties of the position of whom relate primarily to wildland fires, as opposed to structure fires.

(b) SPECIAL BASE RATES OF PAY.—

(1) ENTITLEMENT TO SPECIAL RATE.—Notwithstanding section 5332, a wildland firefighter is entitled to a special base rate at grades 1 through 15, which shall—

(A) replace the otherwise applicable General Schedule base rate for the wildland firefighter;

(B) be basic pay for all purposes, including the purpose of computing a locality-based comparability payment under section 5304 or 5304a; and

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

(2) COMPUTATION.—

(A) IN GENERAL.—The special base rate for a wildland firefighter shall be derived by increasing the otherwise applicable General Schedule base rate for the wildland firefighter by the following applicable percentage for the grade of the wildland firefighter and rounding the result to the nearest whole dollar:

- (i) For GS-1, 42 percent.
- (ii) For GS-2, 39 percent.
- (iii) For GS-3, 36 percent.
- (iv) For GS-4, 33 percent.
- (v) For GS-5, 30 percent.
- (vi) For GS-6, 27 percent.
- (vii) For GS-7, 24 percent.
- (viii) For GS-8, 21 percent.
- (ix) For GS-9, 18 percent.
- (x) For GS-10, 15 percent.
- (xi) For GS-11, 12 percent.
- (xii) For GS-12, 9 percent.
- (xiii) For GS-13, 6 percent.
- (xiv) For GS-14, 3 percent.
- (xv) For GS-15, 1.5 percent.

(B) HOURLY, DAILY, WEEKLY, OR BIWEEKLY RATES.—When the special base rate with respect to a wildland firefighter is expressed as an hourly, daily, weekly, or biweekly rate, the special base rate shall be computed from the appropriate annual rate of basic pay derived under subpara-

graph (A) in accordance with the rules under section 5504(b).

* * * * *

Subchapter IV—Prevailing Rate Systems

* * * * *

SEC. 5343. PREVAILING RATE DETERMINATIONS; WAGE SCHEDULES; NIGHT DIFFERENTIALS

(a) * * *

* * * * *

(g)(1) For a prevailing rate employee described in section 5342(a)(2)(A) who is a wildland firefighter, as defined in section 5332a(a), the Secretary of Agriculture or the Secretary of the Interior (as applicable) shall increase the wage rates of that employee by an amount (determined at the sole and exclusive discretion of the applicable Secretary after consultation with the other Secretary) that is generally consistent with the percentage increases given to wildland firefighters in the General Schedule under section 5332a.

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

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

* * * * *

CHAPTER 55—PAY ADMINISTRATION

Table of sections
Subchapter I—General Provisions
Sec.

* * * * *

Subchapter V—Premium Pay

5541. * * *

5542. * * *

5543. * * *

5544. Wage-board overtime, [and] Sunday rates, and other premium pay[; computation]

5545. * * *

5545a. * * *

5545b. * * *

5545c. Incident response premium pay for employees engaged in wildland firefighting.

* * * * *

Subchapter V—Premium Pay

* * * * *

SEC. 5544. WAGE-BOARD OVERTIME, [AND] SUNDAY RATES, AND OTHER PREMIUM PAY[; COMPUTATION]

(a) * * *

* * * * *

(d) A prevailing rate employee described in section 5342(a)(2)(A) shall receive incident response premium pay under the same terms

and conditions that apply to a covered employee under section 5545c if that employee—

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

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

(B) is certified by the applicable agency to perform wildland fire incident-related duties during the period the employee is deployed to respond to a qualifying incident (as defined in section 5545c(a)).

* * * * *

SEC. 5545c. INCIDENT RESPONSE PREMIUM PAY FOR EMPLOYEES ENGAGED IN WILDLAND FIREFIGHTING

(a) **DEFINITIONS.**—In this section—

(1) the term “appropriate committees of Congress” means—

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

(B) the Committee on Energy and Natural Resources of the Senate;

(C) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(D) the Committee on Appropriations of the Senate;

(E) the Committee on Oversight and Accountability of the House of Representatives;

(F) the Committee on Agriculture in the House of Representatives;

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

(H) the Committee on Appropriations of the House of Representatives;

(2) the term “covered employee” means an employee of the Forest Service or the Department of the Interior who is—

(A) a wildland firefighter, as defined in section 5332a(a);

or

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

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

(4) the term “prescribed fire incident” means a wildland fire originating from a planned ignition in accordance with applicable laws, policies, and regulations to meet specific objectives;

(5) the term “qualifying incident”—

(A) means—

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

(ii) an incident that the Secretary of Agriculture or the Secretary of the Interior determines is similar in nature to an incident described in clause (i); and

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

- (6) the term “severity incident” means an incident in which a covered employee is pre-positioned in an area in which conditions indicate there is a high risk of wildfires.
- (b) *ELIGIBILITY.*—A covered employee is eligible for incident response premium pay under this section if—
- (1) the covered employee is deployed to respond to a qualifying incident; and
 - (2) the deployment described in paragraph (1) is—
 - (A) outside of the official duty station of the covered employee; or
 - (B) within the official duty station of the covered employee and the covered employee is assigned to an incident-adjacent fire camp or other designated field location.
- (c) *ENTITLEMENT TO INCIDENT RESPONSE PREMIUM PAY.*—
- (1) *IN GENERAL.*—A covered employee who satisfies the conditions under subsection (b) is entitled to premium pay for the period in which the covered employee is deployed to respond to the applicable qualifying incident.
 - (2) *COMPUTATION.*—
 - (A) *FORMULA.*—Subject to subparagraphs (B) and (C), premium pay under paragraph (1) shall be paid to a covered employee at a daily rate of 450 percent of the hourly rate of basic pay of the covered employee for each day that the covered employee satisfies the requirements under subsection (b), rounded to the nearest whole cent.
 - (B) *LIMITATION.*—Premium pay under this subsection—
 - (i) with respect to a covered employee for whom the annual rate of basic pay is greater than that for step 10 of GS–10, shall be paid at the daily rate established under subparagraph (A) for the applicable rate for step 10 of GS–10 (where the applicable rate is the rate in effect in the same locality that is the basis for a locality-based comparability payment payable to the covered employee under section 5304); and
 - (ii) may not be paid to a covered employee in a total amount that exceeds \$9,000 in any calendar year.
 - (C) *ADJUSTMENTS.*—
 - (i) *ASSESSMENT.*—The Secretary of Agriculture and the Secretary of the Interior shall assess the difference between the average total amount of compensation that was paid to covered employees, by grade, in fiscal years 2023 and 2024.
 - (ii) *REPORT.*—Not later than 180 days after the date that is 1 year after the effective date of this section, the Secretary of Agriculture and the Secretary of the Interior shall jointly publish a report on the results of the assessment conducted under clause (i).
 - (iii) *ADMINISTRATIVE ACTIONS.*—After publishing the report required under clause (ii), the Secretary of Agriculture and the Secretary of the Interior, in consultation with the Director of the Office of Personnel Management, may, in the sole and exclusive discretion of the Secretaries acting jointly, administratively adjust the amount of premium pay paid under this subsection (or take other administrative action) to ensure that the

average annual amount of total compensation paid to covered employees, by grade, is more consistent with such amount that was paid to those employees in fiscal year 2023.

(iv) CONGRESSIONAL NOTIFICATION.—Not later than 3 days after an adjustment made, or other administrative action taken, under clause (iii) becomes final, the Secretary of Agriculture and the Secretary of the Interior shall jointly submit to the appropriate committees of Congress a notification regarding that adjustment or other administrative action, as applicable.

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

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

(2) may not be considered in determining the lump-sum payment of a covered employee for accumulated and accrued annual leave under section 5551 or section 5552;

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

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

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

* * * * *

SEC. 5547. LIMITATION ON PREMIUM PAY

(a) An employee may be paid premium pay under sections 5542, 5545(a), (b), and (c), 5545a, 5545c, 5546(a) and (b), and 5550 only to the extent that the payment does not cause the aggregate of basic pay and such premium pay for any pay period for such employee to exceed the greater of—

- (1) the maximum rate of basic pay payable for GS-15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or
- (2) the rate payable for level V of the Executive Schedule.

* * * * *

Subpart E—Attendance and Leave

* * * * *

CHAPTER 63—LEAVE

Table of sections
Subchapter I—Annual and Sick Leave
Sec.

* * * * *

Subchapter II—Other Paid Leave
6321. * * *

* * * * *

6329d. Parental bereavement leave.
 6329e. Rest and recuperation leave for employees engaged in wildland firefighting.

* * * * *

Subchapter II—Other Paid Leave

* * * * *

**SEC. 6329e. REST AND RECUPERATION LEAVE FOR EMPLOYEES EN-
 GAGED IN WILDLAND FIREFIGHTING**

(a) *DEFINITIONS.—In this section—*

(1) *the term “applicable Secretary” means the Secretary of Agriculture or the Secretary of the Interior, as applicable to a covered employee;*

(2) *the term “covered employee” means an employee of the Forest Service or the Department of the Interior who—*

(A) qualifies as a wildland firefighter based on the definitions of the terms “firefighter” and “wildland firefighter” in section 5332a(a) (applying the definition of “employee” in section 6301(2) in lieu of the definition of “employee” in section 5331(a)); or

(B) is certified by the applicable Secretary to perform wildland fire incident-related duties during the period the employee is deployed to respond to a qualifying incident; and

(3) *the term “qualifying incident” has the meaning given the term in section 5545c(a).*

(b) *REST AND RECUPERATION LEAVE.—*

(1) *IN GENERAL.—A covered employee may receive paid rest and recuperation leave following the completion of service in which the covered employee is deployed to respond to a qualifying incident, subject to the policies prescribed under this subsection.*

(2) *PRESCRIPTION OF POLICIES.—The Secretary of Agriculture and the Secretary of the Interior shall, in the sole and exclusive discretion of the Secretaries acting jointly, prescribe uniform policies described in paragraph (1) after consulting with the other applicable Secretary.*

(3) *CONTENT OF POLICIES.—The policies prescribed under paragraph (2) may include—*

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

(i) begin on the date on which the covered employee departs from the official duty station of the covered employee and end on the date on which the covered employee returns to the official duty station of the covered employee; and

(ii) be followed by a minimum number of days of rest and recuperation for the covered employee; or

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

(c) *USE OF LEAVE.—*

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

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

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

(C) shall be used immediately after a qualifying incident;

and

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

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

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

(1) shall be excused from duty during the same period of time that other covered employees in the same circumstances are entitled to rest and recuperation leave; and

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

* * * * *

