AMENDMENT TO RULES COMMITTEE PRINT

118–10

OFFERED BY MR. NEGUSE OF COLORADO

Add at the end of title XVIII of division A the following:

SEC. 18. SPECIAL BASE PAY RATES FOR WILDLAND FIREFIGHTERS.

(a) In general.—Title 5, United States Code, is amended by inserting after section 5332 the following:

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

“(a) 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 such position after serv-
ing 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 such position after performing duties described in section 8401(14)(A) for at least 3 years; and

“(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 fire-
fighter, before any additions or reductions, that re-places the General Schedule base rate otherwise ap-plicable to the wildland firefighter and that is ad-ministered in the same manner as General Schedule base rates; and

“(4) the term ‘wildland firefighter’ means any temporary, seasonal, or permanent position at the Department of Agriculture or the Department of the Interior, or Tribal Firefighters, that maintains group, emergency incident management, or fire qualifications, as established annually by the Standards for Wildland Fire Position Qualifications published by the National Wildfire Coordinating Group, and primarily engages in or supports wildland fire management activities, including forestry and range-land technicians and positions concerning aviation, engineering heavy equipment operations, dispatch, training, development and technology, or fire and fuels management.

“(b)(1) Notwithstanding section 5332, a wildland firefighter is entitled to a special base rate of pay at grades 1 through 15 of the General Schedule, as pre-scribed by this subsection. This special base rate shall re-place the otherwise applicable General Schedule base rate and shall be basic pay for all purposes, including the pur-
pose of computing a locality-based comparability payment under section 5304 or 5304a. Such special base rates shall be computed as described in paragraphs (2) and (3) and adjusted at the time of adjustments in the General Schedule.

“(2) The minimum rate of basic pay for any wildland firefighter in levels 1 through 5 of the General Schedule shall—

“(A) be not less than the rate of pay for step 3 of GS–6, as adjusted by the pay locality designated as ‘Rest of U.S.’ under section 5304; and

“(B) not be greater than the minimum rate of basic pay provided to GS–6 under paragraph (3).

“(3) The special base rates for a wildland firefighter in levels 6 through 15 of the General Schedule shall be derived by increasing the otherwise applicable General Schedule base rate on the date of enactment of this Act by the applicable percentage for the wildland firefighter’s grade as shown below and rounding the result to the nearest whole dollar:

“GS–6, 27 percent.
“GS–7, 24 percent.
“GS–8, 21 percent.
“GS–9, 18 percent.
“GS–10, 15 percent.
“GS–11, 12 percent.

“GS–12, 9 percent.

“GS–13, 6 percent.

“GS–14, 3 percent.

“GS–15, 1.5 percent.

“(4) When the special base rate is expressed as an hourly, daily, weekly, or biweekly rate, the rate is computed from the appropriate annual rate of basic pay derived under paragraph (2) or (3) in accordance with the rules prescribed by section 5504(b).”.

(b) EFFECTIVE DATE.—The amendments made by subsections (a) and (d) shall be effective on the first day of the first applicable pay period beginning on or after October 1, 2023.

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

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

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

“(g) For prevailing rate employees described in section 5342(a)(2)(A) who qualify as a ‘wildland firefighter’ based on the definitions of ‘firefighter’ and ‘wildland firefighter’ in section 5332a(a), the Secretary of Agriculture
or the Secretary of the Interior (as applicable) shall increase the wage rates of such employees by amounts (determined at the sole and exclusive discretion of the applicable Secretary after consultation with the other Secretary) that are generally consistent with the percentage increases given to wildland firefighters in the General Schedule under section 5332a. Such an increased wage rate shall be basic pay for the same purposes as the wage rate otherwise established under this section. An increase under this subsection may not cause an employee’s wage rate to increase beyond a rate that would produce an annualized rate in excess of the annual rate for level IV of the Executive Schedule.”.

SEC. 18. WILDLAND FIRE INCIDENT STANDBY PREMIUM PAY.

(a) In general.—Title 5, United States Code, is amended by inserting after section 5545b the following:

“§ 5545c. Incident standby premium pay for employees engaged in wildland firefighting

“(a) In this section—

“(1) 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 ‘firefighter’ and ‘wildland firefighter’ in section 5332a(a); or

“(B) is certified by the applicable agency to perform wildland fire incident related duties during the period such employee is assigned to a qualifying incident;

“(2) the term ‘designated sleep and rest period’ means the hours during an incident deployment that a covered employee is deemed to be in sleep or rest status for pay computation purposes, regardless of actual hours spent in that status;

“(3) the term ‘incident standby 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’ means a wildfire incident, a prescribed fire incident, or a severity incident, but excludes an initial response incident involving a single operational period of less than 36 hours (unless a longer period is approved by an authorized agency official due to exceptional cir-
cumstances) if the employee is in continual work status with no designated sleep and rest period established by the agency;

“(6) the term ‘severity incident’ means an incident in which a covered employee is pre-positioned in an area where conditions indicate there is a high risk of wildfires; and

“(7) the term ‘wildfire incident’ means a wildland fire originating from an unplanned ignition, such as lightning, volcanos, unauthorized and accidental human-caused fires, and prescribed fires that are declared wildfires.

“(b) A covered employee is eligible for incident standby premium pay under this section when meeting all of the following conditions:

“(1) The employee is deployed to the field by the employing agency to respond to a qualifying incident.

“(2) The employee is placed by the employing agency in continuous duty status during the incident deployment.

“(3) Any periods of sleeping and resting occur in a field location associated with the duty assignment.
“(c) A covered employee who meets the conditions in subsection (b) is entitled to incident standby premium pay for designated sleep and rest periods, and such pay shall be the only compensation payable to the employee for those periods, notwithstanding any other law. Such premium pay shall be paid at an hourly rate equal to 50 percent of the employee’s hourly rate of basic pay, rounded to the nearest whole cent. In determining an employee’s minimum wage and overtime pay entitlements under the Fair Labor Standards Act, incident standby premium pay and associated hours shall be disregarded.

“(d) A covered employee’s designated sleep and rest periods shall be fixed at 9 hours for every 24-hour duty period associated with a qualifying incident, including necessary travel time. If the hours of an incident deployment are not an exact multiple of 24-hour periods, the ratio of 9/24 shall be multiplied by hours for the less-than-24-hours period of duty to derive the designated sleep and rest period for that duty period, with the result rounded to the nearest fractional increment established by the agency in tracking hours of work.

“(e) Incident standby premium pay under this section—

“(1) is not considered part of the basic pay of an employee for any purpose;
“(2) may not be considered in determining an employee’s lump-sum payment for accumulated and accrued annual leave under section 5551 or section 5552;

“(3) may not be used in determining pay under section 8114 (related to workers’ compensation); and

“(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.”.

(b) **Other Employees.**—Title 5, United States Code, is further amended—

(1) in section 5544, by—

(A) adding the following:

“(d) A prevailing rate employee described in section 5342(a)(2)(a) shall receive incident standby premium pay under the same terms and conditions that apply to a covered employee under section 5545c if such employee is employed by the forest service or the department of the interior and—

“(1) qualifies as a wildland firefighter based on the definitions of ‘firefighter’ and ‘wildland firefighter’ in section 5332a(a); or

“(2) is certified by the applicable agency to perform wildland fire incident related duties during the
period such employee is assigned to a qualifying inci-

dent (as defined in section 5545c(a)(5)).”; and

(B) amending the section heading to read:

“Wage-board overtime, Sunday rates,

and other premium pay”;

(2) in section 5545, by adding at the end the

following:

“(e) For an employee of the Forest Service or the

Department of the Interior who is temporarily deployed
to perform wildland fire incident related duties, subsection
(c)(2) shall not apply to hours during such temporary de-
ployment notwithstanding any other provision of law.”;

(3) in section 5545a, by adding at the end the

following:

“(l) For an employee of the Forest Service or the De-
partment of the Interior who is temporarily deployed to
perform wildland fire incident related duties, subsection
(c)(2) shall not apply to hours during such temporary de-
ployment notwithstanding any other provision of law.”;

and

(4) in section 5547(a), by inserting “5545c,”
after “5545a,”.

(e) EFFECTIVE DATE.—The amendments made by

this section shall be effective on the first day of the first
applicable pay period beginning on or after October 1, 2023.

(d) CLERICAL AMENDMENTS.—The table of sections for chapter 55 of title 5, United States Code, is amended by—

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

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

; and

(2) inserting after the item relating to section 5545b the following new item:

“5545c. Incident standby premium pay for employees engaged in wildland firefighting.”

SEC. 18. SPECIAL LIMITATIONS ON PAY FOR WILDLAND FIREFIGHTERS.

(a) In general.—Title 5, United States Code, is amended—

(1) by inserting after section 5547 the following:

“§ 5547a. Special limitations on premium pay for employees engaged in wildland firefighting

“(a) In this section—

“(1) 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 ‘firefighter’ and ‘wildland firefighter’ in section 5332a(a); or

“(B) is certified by the applicable agency to perform wildland fire incident related duties during the period such employee is assigned to a qualifying incident;

“(2) the term ‘covered services’ means services performed by an employee that are determined by the Secretary of the Interior or the Secretary of Agriculture, as applicable, to primarily involve emergency wildfire suppression activities, including any periods of duty when the employee is sleeping or resting during an extended period of deployment to engage in those activities;

“(3) the term ‘emergency wildland fire suppression activities’ means initial-response and extended-response activities that directly relate to suppression of a wildfire, including activities associated with a severity incident but excluding activities associated with a prescribed fire incident (as those terms are defined section 5545c); and

“(4) the term ‘premium pay’ means the premium pay paid under the provisions of law cited in
section 5547(a), except as otherwise provided in subsection (h).

“(b) Any premium pay earned by a covered employee for covered services shall be disregarded in calculating the aggregate of such employee’s basic pay and premium pay for purposes of applying a limitation under section 5547.

“(c) Any premium pay that is disregarded under subsection (b) shall be disregarded in calculating such employee’s aggregate pay for purposes of applying the limitation in section 5307.

“(d) Pay that is disregarded under subsection (b) may not be paid to the extent it would cause the aggregate of the employee’s basic pay, premium pay, and hazard pay under section 5545(d) payable in the applicable calendar year to exceed the rate of basic pay payable for a position at level II of the Executive Schedule under section 5313, as in effect at the end of such calendar year. Any premium pay that is subject to a biweekly limitation under section 5547(c) must be paid first before other premium pay in applying the level II limitation.

“(e) Application of the limit in subsection (d) or subsection (h) to a covered employee may be waived at the sole and exclusive discretion of the Secretary of the Interior or the Secretary of Agriculture, as applicable. Before authorizing such a waiver for employees of their respective
agencies, each Secretary, after consulting with the other Secretary, shall prescribe criteria that will be applied in making a determination to grant a waiver.

“(f) Any additional pay resulting from application of this section may not be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551 or section 5552.

“(g) The Departments of the Interior and Agriculture shall maintain records that document uses of the authority provided by this section.

“(h)(1) For prevailing rate employees described in section 5342(a)(2)(A) who meet the requirements in subsection (a)(1) to qualify as a covered employee, premium pay may not be paid to the extent it would cause the aggregate of the employee’s basic pay and premium pay in the applicable calendar year to exceed the rate of basic pay payable for a position at level II of the Executive Schedule under section 5313, as in effect at the end of such calendar year.

“(2) For the purposes of this subsection, the term ‘basic pay’ means wages, environmental differential pay, and night shift differential pay, and the term ‘premium pay’ means overtime pay, Sunday premium pay, and holiday premium pay.”; and
(2) in section 5541(2)(xi), by inserting ‘‘, section 5547a(h),’’ after ‘‘section 5544’’.

(b) CALENDAR YEAR 2023.—For the purpose of applying section 5547 and section 1701 of division B of Public Law 117–43 (5 U.S.C. 5547 note) in calendar year 2023, incident standby premium pay shall be included in premium pay that is subject to the limits established in those sections.

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first pay period that has a payment date in January 2024. Subsection (b) shall be effective on the first day of the first applicable pay period beginning on or after October 1, 2023.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is further amended by inserting after the item for section 5547 the following new item:

‘‘5547a. Special limitations on premium pay for employees engaged in wildland firefighting.’’.