

117TH CONGRESS
1ST SESSION

S. 138

To waive certain pay limitations for Department of Agriculture and Department of the Interior employees engaged in emergency wildland fire suppression activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2021

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To waive certain pay limitations for Department of Agriculture and Department of the Interior employees engaged in emergency wildland fire suppression activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wildland Firefighter
5 Fair Pay Act”.

1 **SEC. 2. WAIVER OF PREMIUM PAY LIMITATIONS FOR DE-**
2 **PARTMENT OF AGRICULTURE AND DEPART-**
3 **MENT OF THE INTERIOR EMPLOYEES EN-**
4 **GAGED IN EMERGENCY WILDLAND FIRE SUP-**
5 **PPRESSION ACTIVITIES.**

6 (a) DEFINITIONS.—In this section:

7 (1) COVERED EMPLOYEE.—The term “covered
8 employee” means an employee of the Department of
9 Agriculture or the Department of the Interior.

10 (2) COVERED SERVICES.—The term “covered
11 services” means services performed by a covered em-
12 ployee that are determined by the Secretary con-
13 cerned to be primarily relating to emergency
14 wildland fire suppression activities.

15 (3) PREMIUM PAY.—The term “premium pay”
16 means the premium pay paid under the provisions of
17 law described in section 5547(a) of title 5, United
18 States Code.

19 (4) SECRETARY CONCERNED.—The term “Sec-
20 retary concerned” means—

21 (A) the Secretary of Agriculture, with re-
22 spect to an employee of the Department of Ag-
23 riculture; and

24 (B) the Secretary of the Interior, with re-
25 spect to an employee of the Department of the
26 Interior.

1 (b) WAIVER OF PREMIUM PAY PERIOD LIMITA-
2 TION.—Any premium pay for covered services shall be dis-
3 regarded in calculating the aggregate of the basic pay and
4 premium pay for the applicable covered employee for pur-
5 poses of a pay period limitation under section 5547(a) of
6 title 5, United States Code, or under any other provision
7 of law.

8 (c) WAIVER OF ANNUAL PREMIUM PAY LIMITA-
9 TION.—Any premium pay for covered services shall be dis-
10 regarded in calculating any annual limitation on the
11 amount of overtime pay payable in a calendar year or fis-
12 cal year under section 5547(b) of title 5, United States
13 Code.

14 (d) PAY LIMITATION.—A covered employee may not
15 be paid premium pay if, or to the extent that, the aggre-
16 gate amount of the basic pay and premium pay (including
17 premium pay for covered services) of the covered employee
18 for a calendar year would exceed the rate of basic pay pay-
19 able for a position at level II of the Executive Schedule
20 under section 5313 of title 5, United States Code, as in
21 effect at the end of that calendar year.

22 (e) TREATMENT OF ADDITIONAL PREMIUM PAY.—
23 If the application of this section results in the payment
24 of additional premium pay to a covered employee of a type
25 that is normally creditable as basic pay for retirement or

1 any other purpose, that additional premium pay shall not
2 be—

3 (1) considered to be basic pay of the covered
4 employee for any purpose; or

5 (2) used in computing a lump-sum payment to
6 the covered employee for accumulated and accrued
7 annual leave under section 5551 or 5552 of title 5,
8 United States Code.

9 (f) OVERTIME RATES.—Section 5542(a)(5) of title 5,
10 United States Code, is amended by striking “the United
11 States Forest Service in”.

12 (g) EFFECTIVE DATE.—This section and the amend-
13 ment made by this section shall take effect as if enacted
14 on January 1, 2020.

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