

114TH CONGRESS
2D SESSION

S. 3544

To amend title 5, United States Code, to ensure that certain firefighters retain retirement benefits while injured or disabled, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2016

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

A BILL

To amend title 5, United States Code, to ensure that certain firefighters retain retirement benefits while injured or disabled, 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 Retirement and Disability Compensation Benefits Act of
6 2016”.

7 **SEC. 2. CIVIL SERVICE RETENTION RIGHTS.**

8 Section 8151 of title 5, United States Code, is
9 amended by striking subsection (b) and inserting the fol-
10 lowing:

1 “(b) REGULATIONS.—

2 “(1) DEFINITIONS.—In this subsection—

3 “(A) the term ‘covered employee’ means an
4 employee who—

5 “(i) held a position with the Forest
6 Service or the Department of the Interior
7 as a wildland firefighter; and

8 “(ii) sustained an injury while in the
9 performance of duty, as determined by the
10 Director of the Office of Personnel Man-
11 agement, that prevents the employee from
12 performing the physical duties of a fire-
13 fighter;

14 “(B) ‘equivalent position’ includes a posi-
15 tion for a covered employee that allows the cov-
16 ered employee to—

17 “(i) receive the same retirement bene-
18 fits under subchapter III of chapter 83 or
19 chapter 84 that the covered employee
20 would receive in the former position had
21 the covered employee not been injured or
22 disabled; and

23 “(ii) does not require the covered em-
24 ployee to complete any more years of serv-
25 ice that the covered employee would be re-

1 required to complete to receive the benefits
2 described in clause (i) had the covered em-
3 ployee not been injured or disabled; and

4 “(C) the term ‘firefighter’ has the meaning
5 given the term in section 8331.

6 “(2) REGULATIONS.—Under regulations issued
7 by the Office of Personnel Management—

8 “(A) the department or agency which was
9 the last employer shall immediately and uncon-
10 ditionally accord the employee, if the injury or
11 disability has been overcome within 1 year after
12 the date of commencement of compensation or
13 from the time compensable disability recurs if
14 the recurrence begins after the injured em-
15 ployee resumes regular full-time employment
16 with the United States, the right to resume the
17 former or an equivalent position of the em-
18 ployee, as well as all other attendant rights
19 which the employee would have had, or ac-
20 quired, in the former position of the employee
21 had the employee not been injured or disabled,
22 including the rights to tenure, promotion, and
23 safeguards in reductions-in-force procedures;

24 “(B) the department or agency which was
25 the last employer shall, if the injury or dis-

1 ability is overcome within a period of more than
2 1 year after the date of commencement of com-
3 pensation, make all reasonable efforts to place,
4 and accord priority to placing, the employee in
5 the former or equivalent position of the em-
6 ployee within such department or agency, or
7 within any other department or agency; and

8 “(C) a covered employee who was injured
9 during the 20-year period ending on the date of
10 enactment of the Wildland Firefighter Retirement
11 and Disability Compensation Benefits Act
12 of 2016 may not receive the same retirement
13 benefits described in paragraph (1)(B)(ii) un-
14 less the covered employee first makes a pay-
15 ment to the Forest Service or the Department
16 of the Interior, as applicable, equal to the
17 amount that would have been deducted from
18 pay under section 8334 or 8442, as applicable,
19 had the covered employee not been injured or
20 disabled.”.

21 **SEC. 3. COMPUTATION OF PAY.**

22 (a) IN GENERAL.—Section 8114 of title 5, United
23 States Code, is amended by striking subsection (e) and
24 inserting the following:

25 “(e) OVERTIME.—

1 “(1) DEFINITIONS.—In this subsection, the
2 term ‘covered overtime pay’ means pay received by
3 an employee who holds a position with the Forest
4 Service or the Department of the Interior as a
5 wildland firefighter while engaged in wildland fire
6 suppression activity.

7 “(2) OVERTIME.—The value of subsistence and
8 quarters, and of any other form of remuneration in
9 kind for services if its value can be estimated in
10 money, and covered overtime pay and premium pay
11 under section 5545(c)(1) of this title are included as
12 part of the pay, but account is not taken of—

13 “(A) overtime pay;

14 “(B) additional pay or allowance author-
15 ized outside the United States because of dif-
16 ferential in cost of living or other special cir-
17 cumstances; or

18 “(C) bonus or premium pay for extraor-
19 dinary service including bonus or pay for par-
20 ticularly hazardous service in time of war.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall take effect on October 1, 2016.

○