

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6160

To recruit and retain Border Patrol agents.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2006

Mr. ROGERS of Alabama (for himself, Mr. ISSA, Mr. McCOTTER, Ms. HARRIS, and Mr. GARY G. MILLER of California) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To recruit and retain Border Patrol agents.

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 “More Border Patrol  
5       Agents Now Act of 2006”.

6       **SEC. 2. BORDER PATROL AGENT ENHANCEMENT.**

7       (a) PLAN.—In order to address the recruitment and  
8       retention challenges faced by the United States Border  
9       Patrol, the Secretary of Homeland Security shall, not later  
10      than six months after the date of the enactment of this

1 Act, submit to the Committee on Homeland Security and  
2 the Committee on Government Reform of the House of  
3 Representatives and the Committee on Homeland Security  
4 and Governmental Affairs of the Senate a plan to deter-  
5 mine how the Border Patrol can better recruit and retain  
6 Border Patrol agents with the appropriate skills and train-  
7 ing to effectively carry out its mission and responsibilities.

8 (b) CONTENTS.—The plan shall include, at a min-  
9 imum, the following components:

10 (1) A strategy for the utilization of the recruit-  
11 ment authority provided in subsection (a) of section  
12 9702 of title 5, United States Code (as added by  
13 section 3), as well as any other strategies the Sec-  
14 retary determines to be important in recruiting well-  
15 qualified Border Patrol agents.

16 (2) A strategy for the utilization of the reten-  
17 tion authority provided in subsection (b) of section  
18 9702 of title 5, United States Code (as added by  
19 section 3), as well as any other strategies the Sec-  
20 retary determines to be important in retaining well-  
21 qualified Border Patrol agents.

22 (3) An assessment of the impact that current  
23 pay levels for Border Patrol agents has on the De-  
24 partment's ability to recruit and retain Border Pa-  
25 trol agents, especially in high cost-of-living areas.

1           (4) An assessment of whether increased oppor-  
2           tunities for Border Patrol agents to transfer between  
3           duty stations would improve employee morale and  
4           enhance the Department’s ability to recruit and re-  
5           tain well-qualified Border Patrol agents.

6 **SEC. 3. RECRUITMENT AND RETENTION BONUSES FOR**  
7                                   **BORDER PATROL AGENT ENHANCEMENT.**

8           (a) IN GENERAL.—Chapter 97 of title 5, United  
9           States Code, is amended by adding at the end the fol-  
10          lowing new section:

11 **“§ 9702. Border Patrol agent enhancement**

12          “(a) RECRUITMENT BONUSES FOR BORDER PATROL  
13          AGENTS.—

14                 “(1) IN GENERAL.—In order to carry out the  
15          plan described in section 2(a) of the More Border  
16          Patrol Agents Now Act of 2006, the Secretary of  
17          Homeland Security may pay a bonus to an indi-  
18          vidual to recruit a sufficient number of Border Pa-  
19          trol agents.

20                 “(2) BONUS AMOUNT.—

21                         “(A) IN GENERAL.—The amount of a  
22          bonus under this subsection shall be determined  
23          by the Secretary, but may not exceed 25 per-  
24          cent of the annual rate of basic pay of the posi-

1           tion involved as of the beginning of the period  
2           of service referred to in paragraph (3)(A).

3           “(B) LUMP-SUM.—A bonus under this sub-  
4           section shall be paid in the form of a lump-sum  
5           payment and shall not be considered to be part  
6           of basic pay.

7           “(3) SERVICE AGREEMENTS.—Payment of a  
8           bonus under this section shall be contingent upon  
9           the individual entering into a written service agree-  
10          ment with the United States Border Patrol. The  
11          agreement shall include—

12                 “(A) the period of service the individual  
13                 shall be required to complete in return for the  
14                 bonus; and

15                 “(B) the conditions under which the agree-  
16                 ment may be terminated before the agreed-upon  
17                 service period has been completed, and the ef-  
18                 fect of such termination.

19           “(4) LIMITATION ON ELIGIBILITY.—A bonus  
20           under this section may not be paid to recruit an in-  
21           dividual for—

22                 “(A) a position to which an individual is  
23                 appointed by the President, by and with the ad-  
24                 vice and consent of the Senate;

1           “(B) a position in the Senior Executive  
2           Service as a noncareer appointee (as defined in  
3           section 3132(a)); or

4           “(C) a position which has been excepted  
5           from the competitive service by reason of its  
6           confidential, policy-determining, policy-making,  
7           or policy-advocating character.

8           “(5) TERMINATION.—The authority to pay bo-  
9           nuses under this subsection shall terminate five  
10          years after the date of the enactment of this section.

11          “(b) RETENTION BONUSES FOR BORDER PATROL  
12          AGENTS.—

13           “(1) IN GENERAL.—In order to carry out the  
14          plan described in section 2(a) of the More Border  
15          Patrol Agents Now Act of 2006, the Secretary of  
16          Homeland Security may pay a retention bonus to a  
17          Border Patrol agent.

18           “(2) SERVICE AGREEMENT.—Payment of a  
19          bonus under this subsection is contingent upon the  
20          employee entering into a written service agreement  
21          with the United States Border Patrol to complete a  
22          period of service with the Border Patrol. Such agree-  
23          ment shall include—

1           “(A) the period of service the employee  
2 shall be required to complete in return for the  
3 bonus; and

4           “(B) the conditions under which the agree-  
5 ment may be terminated before the agreed-upon  
6 service period has been completed, and the ef-  
7 fect of such termination.

8           “(3) BONUS AMOUNT.—

9           “(A) IN GENERAL.—The amount of a  
10 bonus under this subsection shall be determined  
11 by the Secretary, but may not exceed 25 per-  
12 cent of the annual rate of basic pay of the posi-  
13 tion involved as of the beginning of the period  
14 of service referred to in paragraph (2)(A).

15           “(B) LUMP-SUM.—A bonus under this sub-  
16 section shall be paid in the form of a lump-sum  
17 payment and shall not be considered to be part  
18 of basic pay.

19           “(4) LIMITATION.—A bonus under this sub-  
20 section may not be based on any period of service  
21 which is the basis for a recruitment bonus under  
22 subsection (a).

23           “(5) TERMINATION OF AUTHORITY.—The au-  
24 thority to grant bonuses under this subsection shall

1        expire five years after the date of the enactment of  
2        this section.

3        “(c) WAIVER AUTHORITY RELATING TO REEM-  
4 PLOYED ANNUITANTS.—

5            “(1) IN GENERAL.—In order to help address  
6        the challenges faced by the United States Border  
7        Patrol, the Secretary of Homeland Security may ap-  
8        point annuitants to positions within the United  
9        States Border Patrol in accordance with succeeding  
10       provisions of this subsection.

11           “(2) EXCLUSION FROM OFFSET.—An annuitant  
12        serving in a position within the United States Bor-  
13        der Patrol pursuant to an appointment made under  
14        paragraph (1)—

15            “(A) shall not be subject to the provisions  
16        of section 8344 or 8468, as the case may be;  
17        and

18            “(B) shall not, for purposes of subchapter  
19        III of chapter 83 or chapter 84, be considered  
20        an employee.

21           “(3) LIMITATIONS.—

22            “(A) APPOINTMENTS.—The authority to  
23        make any appointments under paragraph (1)  
24        shall terminate five years after the date of the  
25        enactment of this subsection.

1           “(B) EXCLUSION.—The provisions of para-  
2           graph (2) shall not, in the case of any annu-  
3           itant appointed under paragraph (1), remain in  
4           effect—

5                   “(i) with respect to more than five  
6                   years of service (in the aggregate); nor

7                   “(ii) with respect to any service per-  
8                   formed after the end of the ten-year period  
9                   beginning on the date of the enactment of  
10                  this subsection.

11           “(4) NO DISPLACEMENT.—No appointment  
12           under this subsection may be made if such appoint-  
13           ment would result in the displacement of any Border  
14           Patrol employee.

15           “(5) DEFINITION.—For purposes of this sub-  
16           section, the term ‘annuitant’ has the meaning given  
17           such term by section 8331 or 8401, as the case may  
18           be.”.

19           (b) CONFORMING AMENDMENT.—The table of con-  
20           tents for chapter 97 of title 5, United States Code, is  
21           amended by adding at the end the following:

“9702. Border Patrol agent enhancement.”.

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