

109TH CONGRESS
2D SESSION

H. R. 6160

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2006

Received

NOVEMBER 13, 2006

Read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “More Border Patrol
3 Agents Now Act of 2006”.

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

5 (a) PLAN.—In order to address the recruitment and
6 retention challenges faced by the United States Border
7 Patrol, the Secretary of Homeland Security shall, not later
8 than six months after the date of the enactment of this
9 Act, submit to the Committee on Homeland Security and
10 the Committee on Government Reform of the House of
11 Representatives and the Committee on Homeland Security
12 and Governmental Affairs of the Senate a plan to deter-
13 mine how the Border Patrol can better recruit and retain
14 Border Patrol agents with the appropriate skills and train-
15 ing to effectively carry out its mission and responsibilities.

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

18 (1) A strategy for the utilization of the recruit-
19 ment authority provided in subsection (a) of section
20 9702 of title 5, United States Code (as added by
21 section 3), as well as any other strategies the Sec-
22 retary determines to be important in recruiting well-
23 qualified Border Patrol agents.

24 (2) A strategy for the utilization of the reten-
25 tion authority provided in subsection (b) of section
26 9702 of title 5, United States Code (as added by

1 section 3), as well as any other strategies the Sec-
2 retary determines to be important in retaining well-
3 qualified Border Patrol agents.

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

8 (4) An assessment of whether increased oppor-
9 tunities for Border Patrol agents to transfer between
10 duty stations would improve employee morale and
11 enhance the Department's ability to recruit and re-
12 tain well-qualified Border Patrol agents.

13 **SEC. 3. RECRUITMENT AND RETENTION BONUSES FOR**
14 **BORDER PATROL AGENT ENHANCEMENT.**

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

18 **“§ 9702. Border Patrol agent enhancement**

19 **“(a) RECRUITMENT BONUSES FOR BORDER PATROL**
20 **AGENTS.—**

21 **“(1) IN GENERAL.—**In order to carry out the
22 plan described in section 2(a) of the More Border
23 Patrol Agents Now Act of 2006, the Secretary of
24 Homeland Security may pay a bonus to an indi-

vidual to recruit a sufficient number of Border Patrol agents.

“(2) BONUS AMOUNT.—

“(A) IN GENERAL.—The amount of a bonus under this subsection shall be determined by the Secretary, but may not exceed 25 percent of the annual rate of basic pay of the position involved as of the beginning of the period of service referred to in paragraph (3)(A).

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

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

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

“(B) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of such termination.

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

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

7 “(B) a position in the Senior Executive
8 Service as a noncareer appointee (as defined in
9 section 3132(a)); or

10 “(C) a position which has been excepted
11 from the competitive service by reason of its
12 confidential, policy-determining, policy-making,
13 or policy-advocating character.

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

17 “(b) RETENTION BONUSES FOR BORDER PATROL
18 AGENTS.—

19 “(1) IN GENERAL.—In order to carry out the
20 plan described in section 2(a) of the More Border
21 Patrol Agents Now Act of 2006, the Secretary of
22 Homeland Security may pay a retention bonus to a
23 Border Patrol agent.

24 “(2) SERVICE AGREEMENT.—Payment of a
25 bonus under this subsection is contingent upon the

1 employee entering into a written service agreement
2 with the United States Border Patrol to complete a
3 period of service with the Border Patrol. Such agree-
4 ment shall include—

5 “(A) the period of service the employee
6 shall be required to complete in return for the
7 bonus; and

8 “(B) the conditions under which the agree-
9 ment may be terminated before the agreed-upon
10 service period has been completed, and the ef-
11 fect of such termination.

12 “(3) BONUS AMOUNT.—

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

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

23 “(4) LIMITATION.—A bonus under this sub-
24 section may not be based on any period of service

1 which is the basis for a recruitment bonus under
2 subsection (a).

3 “(5) TERMINATION OF AUTHORITY.—The au-
4 thority to grant bonuses under this subsection shall
5 expire five years after the date of the enactment of
6 this section.

7 “(c) WAIVER AUTHORITY RELATING TO REEM-
8 PLOYED ANNUITANTS.—

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

15 “(2) EXCLUSION FROM OFFSET.—An annuitant
16 serving in a position within the United States Bor-
17 der Patrol pursuant to an appointment made under
18 paragraph (1)—

19 “(A) shall not be subject to the provisions
20 of section 8344 or 8468, as the case may be;
21 and

22 “(B) shall not, for purposes of subchapter
23 III of chapter 83 or chapter 84, be considered
24 an employee.

25 “(3) LIMITATIONS.—

1 “(A) APPOINTMENTS.—The authority to
2 make any appointments under paragraph (1)
3 shall terminate five years after the date of the
4 enactment of this subsection.

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

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

11 “(ii) with respect to any service per-
12 formed after the end of the ten-year period
13 beginning on the date of the enactment of
14 this subsection.

15 “(4) NO DISPLACEMENT.—No appointment
16 under this subsection may be made if such appoint-
17 ment would result in the displacement of any Border
18 Patrol employee.

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

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

“9702. Border Patrol agent enhancement.”.

Passed the House of Representatives September 26,
2006.

Attest:

KAREN L. HAAS,
Clerk.