

# Calendar No. 670

118TH CONGRESS  
2D SESSION

# S. 1444

[Report No. 118–267]

To increase the pay and enhance the training of United States Border Patrol agents, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 4, 2023

Mr. LANKFORD (for himself, Ms. SINEMA, Ms. HASSAN, Mr. TILLIS, and Mr. KELLY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

DECEMBER 9, 2024

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To increase the pay and enhance the training of United States Border Patrol agents, 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 “Border Patrol En-  
5 hancement Act”.

1 **SEC. 2. AUTHORIZED STAFFING LEVEL FOR THE UNITED**  
 2 **STATES BORDER PATROL.**

3 (a) **DEFINITIONS.**—In this section:

4 (1) **QUALIFIED RESEARCH ENTITY.**—The term  
 5 “qualified research entity” means an independent,  
 6 not-for-profit, federally funded research entity with  
 7 appropriate expertise and analytical capability to  
 8 analyze and validate the personnel requirements de-  
 9 termination model.

10 (2) **VALIDATED PERSONNEL REQUIREMENTS**  
 11 **DETERMINATION MODEL.**—The term “validated per-  
 12 sonnel requirements determination model” means a  
 13 determination of the number of United States Bor-  
 14 der Patrol agents needed to meet the critical mission  
 15 requirements of the United States Border Patrol to  
 16 maintain an orderly process for migrants entering  
 17 the United States, that has been validated by a  
 18 qualified research entity pursuant to subsection (d).

19 (b) **IN GENERAL.**—The authorized personnel level for  
 20 United States Border Patrol agents on the date of the en-  
 21 actment of this Act is 20,500.

22 (c) **UNITED STATES BORDER PATROL PERSONNEL**  
 23 **REQUIREMENTS DETERMINATION MODEL.**—

24 (1) **COMPLETION; NOTICE.**—Not later than 180  
 25 days after the date of the enactment of this Act, the  
 26 Commissioner shall complete a personnel require-

1       ments determination model for United States Border  
2       Patrol that builds on the 5-year United States Bor-  
3       der Patrol staffing and deployment plan referred to  
4       on page 33 of House of Representatives Report  
5       112–91 (May 26, 2011) and submit a notice of com-  
6       pletion to—

7               (A) the appropriate congressional commit-  
8               tees;

9               (B) the Director of the Office of Personnel  
10              Management; and

11              (C) the Comptroller General of the United  
12              States.

13       (2) CERTIFICATION.—Not later than 30 days  
14       after the completion of the personnel requirements  
15       determination model described in paragraph (1), the  
16       Commissioner shall submit a copy of such model and  
17       a strategy for obtaining third-party validation of  
18       such model, to—

19              (A) the appropriate congressional commit-  
20              tees;

21              (B) the Office of Personnel Management;  
22              and

23              (C) the Comptroller General of the United  
24              States.

1           (d) INDEPENDENT STUDY OF PERSONNEL REQUIRE-  
2       MENTS DETERMINATION MODEL.—

3           (1) REQUIREMENT FOR STUDY.—Not later than  
4       90 days after the completion of the personnel re-  
5       quirements determination model pursuant to sub-  
6       section (c)(1), the Secretary of Homeland Security  
7       shall enter into a contract with a qualified research  
8       entity to conduct a study that analyzes the validity  
9       of the model.

10          (2) REPORTS.—

11           (A) TO SECRETARY.—Not later than 1  
12       year after the completion of the personnel re-  
13       quirements determination model under sub-  
14       section (c)(1), the qualified research entity shall  
15       submit a report to the Secretary of Homeland  
16       Security that includes—

17           (i) the results of the study required  
18       under paragraph (1); and

19           (ii) any recommendations regarding  
20       the model that the qualified research entity  
21       considers to be appropriate.

22           (B) TO CONGRESS.—Not later than 30  
23       days after receiving the report described in sub-  
24       paragraph (A), the Secretary of Homeland Se-  
25       curity shall submit such report, along with any

1 additional views or recommendations regarding  
2 the personnel requirements determination  
3 model, to the Committee on Homeland Security  
4 and Governmental Affairs of the Senate and the  
5 Committee on Homeland Security of the House  
6 of Representatives.

7 (e) **AUTHORITY TO ADJUST AUTHORIZED PER-**  
8 **SONNEL LEVEL.**—Beginning on the date that is 180 days  
9 after receiving a report pursuant to subsection (d)(2) that  
10 validates the personnel requirements determination model,  
11 the Secretary of Homeland Security may adjust the au-  
12 thorized personnel level for the United States Border Pa-  
13 trol to a level that does not exceed the level recommended  
14 by the validated personnel requirements determination  
15 model.

16 **SEC. 3. ESTABLISHMENT OF HIGHER MINIMUM RATES OF**  
17 **PAY FOR UNITED STATES BORDER PATROL**  
18 **AGENTS.**

19 (a) **HIGHER MINIMUM RATE OF PAY.**—Not later  
20 than January 1, 2023, the Director of the Office of Per-  
21 sonnel Management—

22 (1) shall, in accordance with section 5305 of  
23 title 5, United States Code—

24 (A) increase the minimum rate of pay for  
25 United States Border Patrol agents at the

1 grade GS-12 of the General Schedule by not  
2 less than 14 percent; and

3 (B) increase other grades or levels, occupa-  
4 tional groups, series, classes, or subdivisions  
5 thereof, as determined by the Secretary of  
6 Homeland Security; and

7 (2) may make increases in all rates in the pay  
8 range for each such grade or level, in accordance  
9 with such section 5305.

10 (b) INAPPLICABILITY.—The discretion granted to  
11 agency heads under section 5305(a)(2) of title 5, United  
12 States Code, shall not apply to increase in rates of pay  
13 authorized under subsection (a).

14 **SEC. 4. CONTINUING TRAINING.**

15 (a) IN GENERAL.—The Commissioner shall require  
16 all United States Border Patrol agents and other employ-  
17 ees or contracted employees designated by the Commis-  
18 sioner, to participate in annual continuing training to  
19 maintain and update their understanding of—

20 (1) Department of Homeland Security policies,  
21 procedures, and guidelines;

22 (2) the fundamentals of law, ethics, and profes-  
23 sional conduct;

24 (3) applicable Federal law and regulations;

1           (4) precedential legal rulings, including Federal  
2           Circuit Court and United States Supreme Court  
3           opinions relating to the duty of care and treatment  
4           of persons in the custody of the United States Bor-  
5           der Patrol that the Commissioner determines are  
6           relevant to active duty agents;

7           (5) applicable migration trends that the Com-  
8           missioner determines are relevant;

9           (6) best practices for coordinating with commu-  
10          nity stakeholders; and

11          (7) any other information that the Commis-  
12          sioner determines to be relevant to active duty  
13          agents.

14          (b) TRAINING SUBJECTS.—Continuing training  
15          under this subsection shall include training regarding—

16          (1) non-lethal use of force policies available to  
17          United States Border Patrol agents and de-escala-  
18          tion strategies and methods;

19          (2) identifying, screening, and responding to  
20          vulnerable populations, such as children, persons  
21          with diminished mental capacity, victims of human  
22          trafficking, pregnant mothers, victims of gender-  
23          based violence, victims of torture or abuse, and the  
24          acutely ill;

1           (3) trends in transnational criminal organiza-  
2           tion activities that impact border security and mi-  
3           gration;

4           (4) policies, strategies, and programs—

5                 (A) to protect due process, the civil,  
6                 human, and privacy rights of individuals, and  
7                 the private property rights of land owners;

8                 (B) to reduce the number of migrant and  
9                 agent deaths; and

10                (C) to improve the safety of agents on pa-  
11                trol;

12           (5) personal resilience;

13           (6) anti-corruption and officer ethics training;

14           (7) current migration trends, including updated  
15           cultural and societal issues of nations that are a sig-  
16           nificant source of migrants who are—

17                 (A) arriving at a United States port of  
18                 entry to seek humanitarian protection; or

19                 (B) encountered at a United States inter-  
20                 national boundary while attempting to enter  
21                 without inspection;

22           (8) the impact of border security operations on  
23           natural resources and the environment, including  
24           strategies to limit the impact of border security op-  
25           erations on natural resources and the environment;

1           (9) relevant cultural, societal, racial, and reli-  
2           gious training, including cross-cultural communica-  
3           tion skills;

4           (10) training authorized under the Prison Rape  
5           Elimination Act of 2003 (42 U.S.C. 15601 et seq.);

6           (11) risk management and safety training that  
7           includes agency protocols for ensuring public safety,  
8           personal safety, and the safety of persons in the cus-  
9           tody of the Department of Homeland Security;

10          (12) non-lethal, self-defense training; and

11          (13) any other training that meets the require-  
12          ments to maintain and update the subjects identified  
13          in subsection (a).

14          (c) COURSE REQUIREMENTS.—Courses offered under  
15          this section—

16                (1) shall be administered by the United States  
17                Border Patrol, in consultation with the Federal Law  
18                Enforcement Training Center; and

19                (2) shall be approved in advance by the Com-  
20                missioner of U.S. Customs and Border Protection to  
21                ensure that such courses satisfy the requirements for  
22                training under this section.

23          (d) ASSESSMENT.—Not later than 2 years after the  
24          date of the enactment of this Act, the Comptroller General  
25          of the United States shall submit a report to the Com-

1 mittee on Homeland Security and Governmental Affairs  
 2 of the Senate and the Committee on Homeland Security  
 3 of the House of Representatives that assesses the training  
 4 and education provided pursuant to this section, including  
 5 continuing education.

6 (c) FREQUENCY REQUIREMENTS.—Training offered  
 7 as part of continuing education under this section shall  
 8 include—

9 (1) annual courses focusing on the curriculum  
 10 described in paragraphs (1) through (6) of sub-  
 11 section (b); and

12 (2) biannual courses focusing on curriculum de-  
 13 scribed in paragraphs (7) through (12) of subsection  
 14 (b).

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Border Patrol Enhance-*  
 17 *ment Act”.*

18 **SEC. 2. AUTHORIZED STAFFING LEVEL FOR THE UNITED**

19 **STATES BORDER PATROL.**

20 (a) *DEFINED TERM.—In this Act, the term “validated*  
 21 *personnel requirements determination model” means a de-*  
 22 *termination of the number of United States Border Patrol*  
 23 *agents needed to meet the critical mission requirements of*  
 24 *the United States Border Patrol to maintain an orderly*  
 25 *process for migrants entering the United States, that has*

1 *been validated by a qualified research entity pursuant to*  
2 *subsection (c).*

3 *(b) UNITED STATES BORDER PATROL PERSONNEL*  
4 *REQUIREMENTS DETERMINATION MODEL.—*

5 *(1) COMPLETION; NOTICE.—Not later than 180*  
6 *days after the date of the enactment of this Act, the*  
7 *Commissioner shall complete a personnel require-*  
8 *ments determination model for United States Border*  
9 *Patrol that builds on the 5-year United States Border*  
10 *Patrol staffing and deployment plan referred to on*  
11 *page 33 of House of Representatives Report 112–91*  
12 *(May 26, 2011) and submit a notice of completion*  
13 *to—*

14 *(A) the Committee on Homeland Security*  
15 *and Governmental Affairs of the Senate;*

16 *(B) the Committee on Homeland Security of*  
17 *the House of Representatives;*

18 *(C) the Director of the Office of Personnel*  
19 *Management; and*

20 *(D) the Comptroller General of the United*  
21 *States.*

22 *(2) CERTIFICATION.—Not later than 30 days*  
23 *after the completion of the personnel requirements de-*  
24 *termination model described in paragraph (1), the*  
25 *Commissioner shall submit a copy of such model, an*

1 *explanation of its development, and a strategy for ob-*  
 2 *taining independent verification of such model, to—*

3 *(A) the Committee on Homeland Security*  
 4 *and Governmental Affairs of the Senate;*

5 *(B) the Committee on Homeland Security of*  
 6 *the House of Representatives;*

7 *(C) the Office of Personnel Management;*  
 8 *and*

9 *(D) the Comptroller General of the United*  
 10 *States.*

11 *(c) INDEPENDENT STUDY OF PERSONNEL REQUIRE-*  
 12 *MENTS DETERMINATION MODEL.—*

13 *(1) REQUIREMENT FOR STUDY.—Not later than*  
 14 *90 days after the completion of the personnel require-*  
 15 *ments determination model pursuant to subsection*  
 16 *(b)(1), the Secretary of Homeland Security shall se-*  
 17 *lect an entity that is technically, managerially, and*  
 18 *financially independent from the Department of*  
 19 *Homeland Security to conduct an independent*  
 20 *verification and validation of the model.*

21 *(2) REPORTS.—*

22 *(A) TO SECRETARY.—Not later than 1 year*  
 23 *after the completion of the personnel require-*  
 24 *ments determination model under subsection*  
 25 *(b)(1), the entity performing the independent*

1           *verification and validation of the model shall*  
2           *submit a report to the Secretary of Homeland*  
3           *Security that includes—*

4                     *(i) the results of the study conducted*  
5                     *pursuant to paragraph (1); and*

6                     *(ii) any recommendations regarding*  
7                     *the model that such entity considers to be*  
8                     *appropriate.*

9           *(B) TO CONGRESS.—Not later than 30 days*  
10           *after receiving the report described in subpara-*  
11           *graph (A), the Secretary of Homeland Security*  
12           *shall submit such report, along with any addi-*  
13           *tional views or recommendations regarding the*  
14           *personnel requirements determination model, to*  
15           *the Committee on Homeland Security and Gov-*  
16           *ernmental Affairs of the Senate and the Com-*  
17           *mittee on Homeland Security of the House of*  
18           *Representatives.*

19           *(d) AUTHORITY TO HIRE ADDITIONAL PERSONNEL.—*  
20           *Beginning on the date that is 180 days after receiving a*  
21           *report from a qualified research entity pursuant to sub-*  
22           *section (c)(2) that validates the personnel requirements de-*  
23           *termination model and after implementing any rec-*  
24           *ommendations to improve or update such model, the Sec-*  
25           *retary of Homeland Security may hire, train, and assign*

1 600 or more United States Border Patrol agents above the  
 2 attrition level during every fiscal year until the number of  
 3 active agents meets the level recommended by the validated  
 4 personnel requirements determination model.

5 **SEC. 3. ESTABLISHMENT OF HIGHER RATES OF REGULARLY**  
 6 **SCHEDULED OVERTIME PAY FOR UNITED**  
 7 **STATES BORDER PATROL AGENTS CLASSI-**  
 8 **FIED AT GS-12.**

9 Section 5550 of title 5, United States Code, is amended  
 10 by adding at the end the following:

11 “(h) *SPECIAL OVERTIME PAY FOR GS-12 BORDER PA-*  
 12 *TROL AGENTS.*—

13 “(1) *IN GENERAL.*—Notwithstanding paragraphs  
 14 (1)(F), (2)(C), and (3)(C) of subsection (b), a border  
 15 patrol agent encumbering a position at grade GS-12  
 16 shall receive a special overtime payment under this  
 17 subsection for hours of regularly scheduled work de-  
 18 scribed in paragraph (2)(A)(ii) or (3)(A)(ii) of sub-  
 19 section (b), as applicable, that are credited to the  
 20 agent through actual performance of work, crediting  
 21 under rules for canine agents under subsection  
 22 (b)(1)(F), or substitution of overtime hours in the  
 23 same work period under subsection (f)(2)(A), except  
 24 that no such payment may be made for periods of ab-

1        *sence resulting in an hours obligation under para-*  
 2        *graph (3) or (4) of subsection (f).*

3                *“(2) COMPUTATION.—The special overtime pay-*  
 4        *ment authorized under paragraph (1) shall be com-*  
 5        *puted by multiplying the credited hours by 50 percent*  
 6        *of the border patrol agent’s hourly rate of basic pay,*  
 7        *rounded to the nearest cent.*

8                *“(3) LIMITATIONS.—The special overtime pay-*  
 9        *ment authorized under paragraph (1)—*

10                *“(A) is not considered basic pay for retire-*  
 11        *ment under section 8331(3) or 8401(4) or for*  
 12        *any other purpose;*

13                *“(B) is not payable during periods of paid*  
 14        *leave or other paid time off; and*

15                *“(C) is not considered in computing an*  
 16        *agent’s lump-sum annual leave payment under*  
 17        *sections 5551 and 5552.”.*

18        **SEC. 4. GAO ASSESSMENT OF RECRUITING EFFORTS, HIR-**  
 19                **ING REQUIREMENTS, AND RETENTION OF**  
 20                **LAW ENFORCEMENT PERSONNEL.**

21        *The Comptroller General of the United States shall—*

22                *(1) conduct an assessment of U.S. Customs and*  
 23        *Border Protection’s—*

24                *(A) efforts to recruit law enforcement per-*  
 25        *sonnel;*

1           (B) hiring process and job requirements re-  
2 relating to such recruitment; and

3           (C) retention of law enforcement personnel,  
4 including the impact of employee compensation  
5 on such retention efforts; and

6           (2) not later than 2 years after the date of the  
7 enactment of this Act, submit a report containing the  
8 results of such assessment to—

9           (A) the Committee on Homeland Security  
10 and Governmental Affairs of the Senate; and

11           (B) the Committee on Homeland Security of  
12 the House of Representatives.

13 **SEC. 5. CONTINUING TRAINING.**

14           (a) *IN GENERAL.*—The Commissioner shall require all  
15 United States Border Patrol agents and other employees or  
16 contracted employees designated by the Commissioner, to  
17 participate in annual continuing training to maintain and  
18 update their understanding of—

19           (1) Department of Homeland Security policies,  
20 procedures, and guidelines;

21           (2) the fundamentals of law, ethics, and profes-  
22 sional conduct;

23           (3) applicable Federal law and regulations;

24           (4) precedential legal rulings, including Federal  
25 Circuit Court and United States Supreme Court

1 *opinions relating to the duty of care and treatment*  
2 *of persons in the custody of the United States Border*  
3 *Patrol that the Commissioner determines are relevant*  
4 *to active duty agents;*

5 *(5) applicable migration trends that the Com-*  
6 *missioner determines are relevant;*

7 *(6) best practices for coordinating with commu-*  
8 *nity stakeholders; and*

9 *(7) any other information that the Commissioner*  
10 *determines to be relevant to active duty agents.*

11 *(b) TRAINING SUBJECTS.—Continuing training under*  
12 *this subsection shall include training regarding—*

13 *(1) non-lethal use of force policies available to*  
14 *United States Border Patrol agents and de-escalation*  
15 *strategies and methods;*

16 *(2) identifying, screening, and responding to vul-*  
17 *nerable populations, such as children, persons with*  
18 *diminished mental capacity, victims of human traf-*  
19 *ficking, pregnant mothers, victims of gender-based vi-*  
20 *olence, victims of torture or abuse, and the acutely ill;*

21 *(3) trends in transnational criminal organiza-*  
22 *tion activities that impact border security and migra-*  
23 *tion;*

24 *(4) policies, strategies, and programs—*

1           (A) to protect due process, the civil, human,  
2           and privacy rights of individuals, and the pri-  
3           vate property rights of land owners;

4           (B) to reduce the number of migrant and  
5           agent deaths; and

6           (C) to improve the safety of agents on pa-  
7           trol;

8           (5) personal resilience;

9           (6) anti-corruption and officer ethics training;

10          (7) current migration trends, including updated  
11          cultural and societal issues of nations that are a sig-  
12          nificant source of migrants who are—

13               (A) arriving at a United States port of  
14               entry to seek humanitarian protection; or

15               (B) encountered at a United States inter-  
16               national boundary while attempting to enter  
17               without inspection;

18          (8) the impact of border security operations on  
19          natural resources and the environment, including  
20          strategies to limit the impact of border security oper-  
21          ations on natural resources and the environment;

22          (9) relevant cultural, societal, racial, and reli-  
23          gious training, including cross-cultural communica-  
24          tion skills;

1           (10) training authorized under the Prison Rape  
2       *Elimination Act of 2003 (42 U.S.C. 15601 et seq.);*

3           (11) risk management and safety training that  
4       *includes agency protocols for ensuring public safety,*  
5       *personal safety, and the safety of persons in the cus-*  
6       *tody of the Department of Homeland Security;*

7           (12) non-lethal, self-defense training; and

8           (13) any other training that meets the require-  
9       *ments to maintain and update the subjects identified*  
10      *in subsection (a).*

11       (c) *COURSE REQUIREMENTS.*—*Courses offered under*  
12      *this section—*

13           (1) *shall be administered by the United States*  
14      *Border Patrol, in consultation with the Federal Law*  
15      *Enforcement Training Center; and*

16           (2) *shall be approved in advance by the Commis-*  
17      *sioner of U.S. Customs and Border Protection to en-*  
18      *sure that such courses satisfy the requirements for*  
19      *training under this section.*

20       (d) *ASSESSMENT.*—*Not later than 2 years after the*  
21      *date of the enactment of this Act, the Comptroller General*  
22      *of the United States shall submit a report to the Committee*  
23      *on Homeland Security and Governmental Affairs of the*  
24      *Senate and the Committee on Homeland Security of the*  
25      *House of Representatives that assesses the training and edu-*

1 cation provided pursuant to this section, including con-  
2 tinuing education.

3 (e) *FREQUENCY REQUIREMENTS.*—Training offered as  
4 part of continuing education under this section shall in-  
5 clude—

6 (1) annual courses focusing on the curriculum  
7 described in paragraphs (1) through (6) of subsection  
8 (b); and

9 (2) biannual courses focusing on curriculum de-  
10 scribed in paragraphs (7) through (12) of subsection  
11 (b).

12 **SEC. 6. REPORTING REQUIREMENTS.**

13 (a) *RECRUITMENT AND RETENTION REPORT.*—The  
14 Comptroller General of the United States shall—

15 (1) conduct a study of the recruitment and reten-  
16 tion of female agents in the United States Border Pa-  
17 trol that examines—

18 (A) the recruitment, application processes,  
19 training, promotion, and other aspects of em-  
20 ployment for women in the United States Border  
21 Patrol;

22 (B) the training, complaints system, and  
23 redress for sexual harassment and assault; and

1           (C) additional issues related to recruitment  
2           and retention of female Border Patrol agents;  
3           and

4           (2) not later than 1 year after the date of the en-  
5           actment of this Act, submit a report containing the  
6           results of such study and recommendations for ad-  
7           dressing any identified deficiencies or opportunities  
8           for improvement to—

9                   (A) the Commissioner of U.S. Customs and  
10                  Border Protection;

11                   (B) the Committee on Homeland Security  
12                  and Governmental Affairs of the Senate; and

13                   (C) the Committee on Homeland Security of  
14                  the House of Representatives.

15           (b) IMPLEMENTATION REPORT.—Not later than 90  
16           days after receiving the recruitment and retention report  
17           required under subsection (a), the Commissioner shall sub-  
18           mit a report to the Committee on Homeland Security and  
19           Governmental Affairs of the Senate and the Committee on  
20           Homeland Security of the House of Representatives that de-  
21           scribes the status of the Commissioner's efforts to implement  
22           any recommendations included in recruitment and reten-  
23           tion report.

Calendar No. 670

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

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## **A BILL**

To increase the pay and enhance the training of United States Border Patrol agents, and for other purposes.

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DECEMBER 9, 2024

Reported with an amendment