

To the office of U.S. Representative Andy Barr

Re: HR 10070 (119th Congress), Border Patrol Overtime Parity Act • Latest action (2026-08-10): Referred to the House Committee on Oversight and Government Reform.

VFA SI Solution #256 • published 2026-08-14 • <https://www.valuesforamerica.com/solutions/256>

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Border Patrol Overtime Parity and Accountability Act

The measure, as described from the official record: Ensure that U.S. Border Patrol agents receive overtime pay rates equal to those of other federal law enforcement officers, to improve recruitment and retention at the border.

THE PROPOSAL

This Act establishes overtime pay parity for U.S. Border Patrol agents when compared to other federal law enforcement officers under title 5, United States Code. For purposes of this Act, 'Border Patrol agent' means an employee of U.S. Customs and Border Protection whose primary duty is enforcement of immigration and customs laws along the international borders of the United States. Such agents shall receive overtime pay at a rate not less than the rate provided to federal law enforcement officers under section 5542 of title 5, United States Code, subject to the limitations and conditions described below.

Not later than 180 days after enactment, the Secretary of Homeland Security shall issue regulations defining eligible overtime work for Border Patrol agents, including the maximum number of overtime hours that may be compensated per pay period (not to exceed 50 hours, except in declared national emergency) and the types of activities qualifying as overtime (e.g., border patrol operations, checkpoint operations, and administrative duties directly supporting enforcement). The Secretary shall ensure that no agent receives both premium pay and overtime for the same hours, and that overtime parity does not create a windfall for supervisory or administrative personnel.

No funds may be obligated under this Act unless the Secretary first certifies to the Committees on Appropriations and Homeland Security of both chambers that the cost of parity will not exceed the annual cap set forth in this Act. The cap shall be \$150 million per fiscal year, adjusted for inflation. The Secretary shall submit quarterly reports to the Government Accountability Office detailing expenditures, number of agents affected, and average overtime hours. The Government Accountability Office shall audit the program annually and report to Congress on its cost-effectiveness and impact on border security.

This Act shall sunset after five years unless reauthorized by Congress. Upon sunset, the Secretary shall submit a final evaluation to Congress including recommendations on whether parity should be extended, modified, or terminated. If the Secretary fails to comply with any provision of this Act, the Office of Inspector General of the Department of Homeland Security shall withhold a proportional amount of the Department's subsequent administrative

appropriations until compliance is achieved.

This Act does not preempt or interfere with state or local law enforcement overtime practices. Nothing in this Act shall be construed to expand the immigration enforcement authority of the federal government beyond existing statutory limits.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	Reallocation of unobligated administrative balances within the Department of Homeland Security and a small increase in the Border Crossing Card fee, subject to appropriations.
Funding Amount	\$150 million per fiscal year, indexed for inflation, with a five-year total cap of \$750 million.
Sunset Years	5 years
Oversight Body	Government Accountability Office (GAO), in consultation with the DHS Office of Inspector General.
Enforcement Mechanism	DHS Secretary certification, GAO audits, OIG withholding of administrative funds for noncompliance, and congressional reauthorization requirement.
Effective Date	90 days after enactment of this Act, with regulations due within 180 days.

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 3 (Commerce with Foreign Nations)
- Article I, Section 8, Clause 4 (Rule of Naturalization)
- Article I, Section 8, Clause 18 (Necessary and Proper Clause)
- Tenth Amendment (respecting state and local law enforcement authority)

Concerns with the measure as written:

- No enumerated-power defect, as the law relates to federal personnel management and border security.
 - Potential for fiscal waste if overtime parity is uncapped and unmonitored.
 - Risk of administrative abuse in calculating overtime eligibility without clear standards.
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WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Honors Democratic priorities of fair labor compensation and fiscal accountability (sunset, audits, caps) while honoring Republican priorities of border security and agent retention (parity with other federal law enforcement). Both parties benefit from a data-driven, cost-controlled approach that avoids tax increases.

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