

118TH CONGRESS  
2D SESSION

# H. R. 7369

To provide U.S. Customs and Border Protection with adequate flexibility  
in its employment authorities.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2024

Mr. CISCOMANI (for himself and Mr. STANTON) introduced the following bill;  
which was referred to the Committee on Oversight and Accountability

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## A BILL

To provide U.S. Customs and Border Protection with  
adequate flexibility in its employment authorities.

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 “U.S. Customs and Bor-  
5 der Protection Hiring and Retention Act of 2024” or the  
6 “CBP HiRe Act of 2024”.

7 **SEC. 2. FLEXIBILITY IN EMPLOYMENT AUTHORITIES.**

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

1 **“§ 9702. U.S. Customs and Border Protection employ-**  
2 **ment authorities**

3 “(a) DEFINITIONS.—In this section—

4 “(1) the term ‘CBP employee’ means an em-  
5 ployee of U.S. Customs and Border Protection;

6 “(2) the term ‘Commissioner’ means the Com-  
7 missioner of U.S. Customs and Border Protection;

8 “(3) the term ‘Director’ means the Director of  
9 the Office of Personnel Management;

10 “(4) the term ‘rural or remote area’ means an  
11 area within the United States that is not within an  
12 area defined and designated as an urbanized area by  
13 the Bureau of the Census in the most recently com-  
14 pleted decennial census; and

15 “(5) the term ‘Secretary’ means the Secretary  
16 of Homeland Security.

17 “(b) DEMONSTRATION OF RECRUITMENT AND RE-  
18 TENTION DIFFICULTIES IN RURAL OR REMOTE AREAS.—

19 “(1) IN GENERAL.—For purposes of sub-  
20 sections (c) and (d), the Secretary shall determine,  
21 for a rural or remote area, whether there is—

22 “(A) a critical hiring need in the area; and

23 “(B) a direct relationship between—

24 “(i) the rural or remote nature of the  
25 area; and

1                   “(ii) difficulty in the recruitment and  
2                   retention of CBP employees in the area.

3                   “(2) FACTORS.—To inform the determination  
4                   of a direct relationship under paragraph (1)(B), the  
5                   Secretary may consider evidence—

6                   “(A) that the Secretary—

7                   “(i) is unable to efficiently and effec-  
8                   tively recruit individuals for positions as  
9                   CBP employees, which may be dem-  
10                  onstrated with various types of evidence,  
11                  including—

12                  “(I) evidence that multiple posi-  
13                  tions have been continuously vacant  
14                  for significantly longer than the na-  
15                  tional average period for which similar  
16                  positions in U.S. Customs and Border  
17                  Protection are vacant; and

18                  “(II) recruitment studies that  
19                  demonstrate the inability of the Sec-  
20                  retary to efficiently and effectively re-  
21                  cruit CBP employees for positions in  
22                  the area; or

23                  “(ii) experiences a consistent inability  
24                  to retain CBP employees that negatively

1 impacts agency operations at a local or re-  
2 gional level; or

3 “(B) of any other inability, directly related  
4 to recruitment or retention difficulties, that the  
5 Secretary determines sufficient.

6 “(c) DIRECT HIRE AUTHORITY; RECRUITMENT AND  
7 RELOCATION BONUSES; RETENTION BONUSES.—

8 “(1) DIRECT HIRE AUTHORITY.—

9 “(A) IN GENERAL.—The Secretary may  
10 appoint, without regard to any provision of sec-  
11 tions 3309 through 3319, candidates to posi-  
12 tions in the competitive service as CBP employ-  
13 ees, in a rural or remote area, if the Sec-  
14 retary—

15 “(i) determines that—

16 “(I) there is a critical hiring  
17 need; and

18 “(II) there exists a severe short-  
19 age of qualified candidates because of  
20 the direct relationship identified by  
21 the Secretary under subsection  
22 (b)(1)(B) of this section between—

23 “(aa) the rural or remote  
24 nature of the area; and

1                   “(bb) difficulty in the re-  
2                   recruitment and retention of CBP  
3                   employees in the area; and

4                   “(ii) has given public notice for the  
5                   positions.

6                   “(B) PRIORITIZATION OF HIRING VET-  
7                   ERANS.—If the Secretary uses the direct hiring  
8                   authority under subparagraph (A), the Sec-  
9                   retary shall apply the principles of preference  
10                  for the hiring of veterans established under sub-  
11                  chapter I of chapter 33.

12                  “(2) RECRUITMENT AND RELOCATION BO-  
13                  NUSES.—The Secretary may pay a bonus to an indi-  
14                  vidual (other than an individual described in sub-  
15                  section (a)(2) of section 5753) if—

16                  “(A) the Secretary determines that—

17                          “(i) conditions consistent with the  
18                          conditions described in paragraphs (1) and  
19                          (2) of subsection (b) of such section 5753  
20                          are satisfied with respect to the individual  
21                          (without regard to any other provision of  
22                          that section); and

23                          “(ii) the position to which the indi-  
24                          vidual is appointed or to which the indi-  
25                          vidual moves or must relocate—

1           “(I) is a position as a CBP em-  
2           ployee; and

3           “(II) is in a rural or remote area  
4           for which the Secretary has identified  
5           a direct relationship under subsection  
6           (b)(1)(B) of this section between—

7                   “(aa) the rural or remote  
8                   nature of the area; and

9                   “(bb) difficulty in the re-  
10                  cruitment and retention of CBP  
11                  employees in the area; and

12           “(B) the individual enters into a written  
13           service agreement with the Secretary—

14                   “(i) under which the individual is re-  
15                   quired to complete a period of employment  
16                   as a CBP employee of not less than 2  
17                   years; and

18                   “(ii) that includes—

19                           “(I) the commencement and ter-  
20                           mination dates of the required service  
21                           period (or provisions for the deter-  
22                           mination thereof);

23                           “(II) the amount of the bonus;  
24                   and

1                   “(III) other terms and conditions  
2                   under which the bonus is payable,  
3                   subject to the requirements of this  
4                   subsection, including—

5                                 “(aa) the conditions under  
6                                 which the agreement may be ter-  
7                                 minated before the agreed-upon  
8                                 service period has been com-  
9                                 pleted; and

10                                “(bb) the effect of a termi-  
11                                nation described in item (aa).

12                   “(3) RETENTION BONUSES.—The Secretary  
13                   may pay a retention bonus to a CBP employee  
14                   (other than an individual described in subsection  
15                   (a)(2) of section 5754) if—

16                                “(A) the Secretary determines that—

17                                       “(i) a condition consistent with the  
18                                       condition described in subsection (b)(1) of  
19                                       such section 5754 is satisfied with respect  
20                                       to the CBP employee (without regard to  
21                                       any other provision of that section);

22                                       “(ii) the CBP employee is employed in  
23                                       a rural or remote area for which the Sec-  
24                                       retary has identified a direct relationship

1 under subsection (b)(1)(B) of this section  
2 between—

3 “(I) the rural or remote nature  
4 of the area; and

5 “(II) difficulty in the recruitment  
6 and retention of CBP employees in  
7 the area; and

8 “(iii) in the absence of a retention  
9 bonus, the CBP employee would be likely  
10 to leave—

11 “(I) the Federal service; or

12 “(II) for a different position in  
13 the Federal service, including a posi-  
14 tion in another agency or component  
15 of the Department of Homeland Secu-  
16 rity; and

17 “(B) the individual enters into a written  
18 service agreement with the Secretary—

19 “(i) under which the individual is re-  
20 quired to complete a period of employment  
21 as a CBP employee of not less than 2  
22 years; and

23 “(ii) that includes—

24 “(I) the commencement and ter-  
25 mination dates of the required service



1 period (or provisions for the deter-  
2 mination thereof);

3 “(II) the amount of the bonus;  
4 and

5 “(III) other terms and conditions  
6 under which the bonus is payable,  
7 subject to the requirements of this  
8 subsection, including—

9 “(aa) the conditions under  
10 which the agreement may be ter-  
11 minated before the agreed-upon  
12 service period has been com-  
13 pleted; and

14 “(bb) the effect of a termi-  
15 nation described in item (aa).

16 “(4) RULES FOR BONUSSES.—

17 “(A) MAXIMUM BONUS.—A bonus paid to  
18 an employee under—

19 “(i) paragraph (2) may not exceed  
20 100 percent of the annual rate of basic pay  
21 of the employee as of the commencement  
22 date of the applicable service period; and

23 “(ii) paragraph (3) may not exceed 50  
24 percent of the annual rate of basic pay of

1           the employee as of the commencement date  
2           of the applicable service period.

3           “(B) RELATION TO BASIC PAY.—A bonus  
4           paid to an employee under paragraph (2) or (3)  
5           shall not be considered part of the basic pay of  
6           the employee for any purpose.

7           “(5) OPM OVERSIGHT.—The Director shall, to  
8           the extent practicable—

9           “(A) set aside a determination of the Sec-  
10          retary under this subsection if the Director  
11          finds substantial evidence that the Secretary  
12          abused the discretion of the Secretary in mak-  
13          ing the determination; and

14          “(B) oversee the compliance of the Sec-  
15          retary with this subsection.

16          “(d) SPECIAL PAY AUTHORITY.—In addition to the  
17          circumstances described in subsection (b) of section 5305,  
18          the Director may establish special rates of pay in accord-  
19          ance with that section if the Director finds that the re-  
20          cruitment or retention efforts of the Secretary with respect  
21          to positions for CBP employees in an area or location are,  
22          or are likely to become, significantly handicapped because  
23          the positions are located in a rural or remote area for  
24          which the Secretary has identified a direct relationship  
25          under subsection (b)(1)(B) of this section between—

1 “(1) the rural or remote nature of the area; and

2 “(2) difficulty in the recruitment and retention  
3 of CBP employees in the area.

4 “(e) REGULAR CBP REVIEW.—

5 “(1) ENSURING FLEXIBILITIES MEET CBP  
6 NEEDS.—Each year, the Secretary shall review the  
7 use of hiring flexibilities under subsections (c) and  
8 (d) to fill positions at a location in a rural or remote  
9 area to determine—

10 “(A) the impact of the use of those flexi-  
11 bilities on solving hiring and retention chal-  
12 lenges at the location;

13 “(B) whether hiring and retention chal-  
14 lenges still exist at the location; and

15 “(C) whether the Secretary needs to con-  
16 tinue to use those flexibilities at the location.

17 “(2) CONSIDERATION.—In conducting the re-  
18 view under paragraph (1), the Secretary shall con-  
19 sider—

20 “(A) whether any CBP employee accepted  
21 an employment incentive under subsection (c)  
22 or (d) and then transferred to a new location or  
23 left U.S. Customs and Border Protection; and

24 “(B) the length of time that each employee  
25 identified under subparagraph (A) stayed at the

1 original location before transferring to a new lo-  
2 cation or leaving U.S. Customs and Border  
3 Protection.

4 “(3) DISTRIBUTION.—The Secretary shall sub-  
5 mit to Congress a report on each review required  
6 under paragraph (1).

7 “(f) IMPROVING CBP HIRING AND RETENTION.—

8 “(1) EDUCATION OF CBP HIRING OFFICIALS.—  
9 Not later than 180 days after the date of enactment  
10 of the U.S. Customs and Border Protection Hiring  
11 and Retention Act of 2024 and in conjunction with  
12 the Chief Human Capital Officer of the Department  
13 of Homeland Security, the Secretary shall develop  
14 and implement a strategy to improve education re-  
15 garding hiring and human resources flexibilities (in-  
16 cluding hiring and human resources flexibilities for  
17 locations in rural or remote areas) for all employees,  
18 serving in agency headquarters or field offices, who  
19 are involved in the recruitment, hiring, assessment,  
20 or selection of candidates for locations in a rural or  
21 remote area, as well as the retention of current em-  
22 ployees.

23 “(2) ELEMENTS.—Elements of the strategy  
24 under paragraph (1) shall include the following:

1           “(A) Developing or updating training and  
2 educational materials on hiring and human re-  
3 sources flexibilities for employees who are in-  
4 volved in the recruitment, hiring, assessment, or  
5 selection of candidates, as well as the retention  
6 of current employees.

7           “(B) Regular training sessions for per-  
8 sonnel who are critical to filling open positions  
9 in rural or remote areas.

10           “(C) The development of pilot programs or  
11 other programs, as appropriate, to address  
12 identified hiring challenges in rural or remote  
13 areas.

14           “(D) Developing and enhancing strategic  
15 recruiting efforts through relationships with in-  
16 stitutions of higher education, as defined in sec-  
17 tion 102 of the Higher Education Act of 1965  
18 (20 U.S.C. 1002), veterans transition and em-  
19 ployment centers, and job placement program  
20 in regions that could assist in filling positions  
21 in rural or remote areas.

22           “(E) Examination of existing agency pro-  
23 grams on how to most effectively aid spouses  
24 and families of individuals who are candidates  
25 or new hires in a rural or remote area.

1           “(F) Feedback from individuals who are  
2 candidates or new hires at locations in a rural  
3 or remote area, including feedback on the qual-  
4 ity of life in rural or remote areas for new hires  
5 and their families.

6           “(G) Feedback from CBP employees, other  
7 than new hires, who are stationed at locations  
8 in a rural or remote area, including feedback on  
9 the quality of life in rural or remote areas for  
10 those CBP employees and their families.

11           “(H) Evaluation of Department of Home-  
12 land Security internship programs and the use-  
13 fulness of those programs in improving hiring  
14 by the Secretary in rural or remote areas.

15           “(3) EVALUATION.—

16           “(A) IN GENERAL.—Each year, the Sec-  
17 retary shall—

18           “(i) evaluate the extent to which the  
19 strategy developed and implemented under  
20 paragraph (1) has improved the hiring and  
21 retention ability of the Secretary; and

22           “(ii) make any appropriate updates to  
23 the strategy under paragraph (1).

24           “(B) INFORMATION.—The evaluation con-  
25 ducted under subparagraph (A) shall include—

1           “(i) any reduction in the time taken  
2           by the Secretary to fill mission-critical po-  
3           sitions in rural or remote areas;

4           “(ii) a general assessment of the im-  
5           pact of the strategy developed and imple-  
6           mented under paragraph (1) on hiring  
7           challenges in rural or remote areas; and

8           “(iii) other information the Secretary  
9           determines relevant.

10          “(g) INSPECTOR GENERAL REVIEW.—Not later than  
11          2 years after the date of enactment of the U.S. Customs  
12          and Border Protection Hiring and Retention Act of 2024,  
13          the Inspector General of the Department of Homeland Se-  
14          curity shall review the use of hiring flexibilities by the Sec-  
15          retary under subsections (c) and (d) to determine whether  
16          the use of those flexibilities is helping the Secretary meet  
17          hiring and retention needs in rural and remote areas.

18          “(h) REPORT ON POLYGRAPH REQUESTS.—The Sec-  
19          retary shall report to Congress on the number of requests  
20          the Secretary receives from any other Federal agency for  
21          the file of an applicant for a position in U.S. Customs  
22          and Border Protection that includes the results of a poly-  
23          graph examination.

24          “(i) DELEGATION.—

1           “(1) IN GENERAL.—Subject to paragraph (2),  
2           the Secretary may delegate any authority under this  
3           section to the Commissioner.

4           “(2) OVERSIGHT.—The Commissioner may not  
5           make a determination under subsection (b)(1) unless  
6           the Secretary approves the determination.

7           “(j) RULE OF CONSTRUCTION.—Nothing in this sec-  
8           tion shall be construed to exempt the Secretary or the Di-  
9           rector from the applicability of the merit system principles  
10          under section 2301.

11          “(k) SUNSET.—The authorities under subsections (c)  
12          and (d) shall terminate on the date that is 5 years after  
13          the date of enactment of the U.S. Customs and Border  
14          Protection Hiring and Retention Act of 2024.”.

15          (b) TECHNICAL AND CONFORMING AMENDMENT.—  
16          The table of sections for chapter 97 of title 5, United  
17          States Code, is amended by adding at the end the fol-  
18          lowing:

          “9702. U.S. Customs and Border Protection employment authorities.”.

19          (c) UPDATE.—Not later than 180 days after the date  
20          of the enactment of this Act, the Secretary of Homeland  
21          Security shall update the U.S. Customs and Border Pro-  
22          tection Office of Field Operations staff model to take into  
23          account changes to mission requirements in a post-COVID  
24          era and conditions at the Ports of Entry.



1           (d) SENSE OF CONGRESS ON STUDENT LOAN REPAY-  
2 MENTS.—It is the sense of the Congress that any em-  
3 ployee hired pursuant to section 9702 of title 5, United  
4 States Code, as added by subsection (a) of this Act, should  
5 receive student loan repayments under section 5379 of  
6 such title.

○