



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 30, 2014

S. 1691 **Border Patrol Agent Pay Reform Act of 2014**

*As ordered reported by the Senate Committee on Homeland Security
and Governmental Affairs on June 25, 2014*

S. 1691 would establish a new system for determining overtime compensation for agents of the border patrol in U.S. Customs and Border Protection (CBP). CBO estimates that implementing S. 1691 could save about \$100 million annually, assuming future appropriations are reduced consistent with the bill's provisions. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Under current law, border patrol agents are eligible for Administratively Uncontrollable Overtime (AUO), which compensates employees for unscheduled but necessary overtime. Generally, the agents themselves are responsible for identifying circumstances that require them to remain on duty beyond regular hours. Under AUO, most agents earn up to 25 percent of their base salary for time worked in excess of 80 hours in a pay period. Agents may earn additional overtime compensation required by the Fair Labor Standards Act (FLSA) and the Federal Employee Pay Act (FEPA) that is generally paid at 50 percent above the regular rate. Total overtime costs for border patrol agents, including pay and benefits, was \$627 million in 2013, while total compensation costs for those agents was \$3.1 billion in 2013.

S. 1691 would replace AUO with three options that agents would choose from: (1) work 100 hours each pay period and increase base salary by 25 percent; (2) work 90 hours each pay period and increase base salary by 12.5 percent; or (3) work no overtime. Agents would no longer be eligible for overtime pay under the FLSA. In addition, the legislation would provide compensatory time off for unscheduled overtime above 80, 90, or 100 hours per pay period, depending on the option chosen. That compensatory time would be limited to 240 hours a year and could not be redeemed for monetary compensation.

The bill would generally require 90 percent of border patrol agents to work 100 hours each pay period, while CBP expects that most remaining agents would work 90 hours per pay period. According to the agency, if the overtime pay system in S. 1691 had been implemented for fiscal year 2013, then total overtime costs would have been about \$525 million, or about \$100 million lower than the actual overtime expense for that year.

Costs would decline under S. 1691 mostly because border patrol agents would no longer receive compensation required under the FLSA.

Budgetary savings under S. 1691 could be smaller or larger than CBO estimates. Potential savings in future years could be influenced by unanticipated incidents at U.S. borders that cause overtime use to be more or less than has occurred in the past. In addition, the CBP could curtail unnecessary use of AOU under current law or allow it to be used to a greater extent than it has been used in the past. Finally, under the bill, CBP would have the discretion to allow agents to earn FEPA overtime pay in addition to the options to increase base pay described earlier. This estimate assumes CBP would not approve the use of FEPA overtime pay under the bill beyond a few million dollars expended for that purpose in 2013.

S. 1691 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.