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United States Senate

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May 20, 2024

The Honorable Thomas Vilsack
Secretary
US Department of Agriculture
1400 Independence Avenue, SW
Washington, D.C. 20250

Dear Secretary Vilsack:

We are writing to express our concern with delays at the National Finance Center (NFC), housed within the Department of Agriculture, in implementing provisions of the National Defense Authorization Act (NDAA) for Fiscal Year 2024 (FY 2024). Signed into law in December 2023, section 5201 of the FY 2024 NDAA addressed overtime pay disparities for experienced U.S. Border Patrol (USBP) Agents.¹ Unfortunately, this new premium pay has yet to reach these men and women trusted with securing our nation's borders.

Plagued by morale issues due to worsening personnel shortages and unsustainable migrant arrivals at the Southwest border, USBP has struggled with Agent hiring and retention for years.² Despite this problem, Border Patrol Agents have not received overtime pay commensurate with other federal law enforcement personnel.³ Section 5201 rectifies this deficiency by providing Agents at the General Schedule (GS) 12 level with a premium pay of 50 percent of their hourly rate of basic pay when they work their Border Patrol Agent Pay Reform Act (BPAPRA) obligated overtime (hours 81-100 per pay period).⁴

The NFC, responsible for the administration of pay to Customs and Border Protection personnel, still has not implemented this change—five months since section 5201 became law. With that, we request answers to the following questions no later than June 4, 2024:

- 1) What actions have been taken, to date, to comply with the directives of section 5201 of the FY 2024 NDAA?
- 2) What actions still need to be taken to implement the new premium pay provisions included in section 5201 as quickly as possible?

¹ Pub. L. 118-31, Sec. 5201 (2023)

² Department of Homeland Security, Office of Inspector General: *Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale* (May 3, 2023) (<https://www.oig.dhs.gov/sites/default/files/assets/2023-05/OIG-23-24-May23.pdf>) (accessed May 1, 2024)

³ National Border Patrol Council, Local 2455: *Press Conference: Border Patrol Overtime Provision* (Jan. 3, 2024) (<https://local2455.com/featured/press-conference-border-patrol-overtime-provision/>) (accessed May 1, 2024)

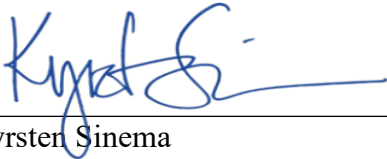
⁴ Pub. L. 113-277 (2014)

- 3) What deficiencies in your systems and processes have created such a long implementation process?
- 4) By which date should we expect the Border Patrol Agents to see this new premium pay and backdated premium pay reflected in their paychecks?

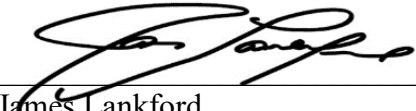
Finally, we request that you provide a briefing to our offices no later than June 19, 2024, on your efforts to implement this change, and on changes necessary within the NFC to enhance compliance with federal law. Our Border Patrol Agents, who have performed the thankless yet heroic job of managing the crisis at our border for years, deserve to be compensated for their sacrifices, and it is profoundly unacceptable to allow bureaucracy to stand in the way of our national security.

Thank you for your attention to this important matter. If you have any questions, please contact Michael Fox (for Senator Sinema) at [REDACTED] or Jacob Stubbs (for Senator Lankford) at [REDACTED]

Sincerely,



Kyrsten Sinema
Chair
Subcommittee on Government
Operations and Border Management



James Lankford
Ranking Member
Subcommittee on Government
Operations and Border Management

cc:

Troy Miller, Senior Official Performing the Duties of the Commissioner, U.S. Customs and Border Protection