

Calendar No. 525

117TH CONGRESS
2^D SESSION**S. 3868****[Report No. 117–175]**

To correct the inequitable denial of enhanced retirement and annuity benefits
to certain U.S. Customs and Border Protection Officers.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2022

Mr. PETERS (for himself and Mr. HAWLEY) introduced the following bill;
which was read twice and referred to the Committee on Homeland Security
and Governmental Affairs

OCTOBER 18, 2022

Reported under authority of the order of the Senate of October 14, 2022, by
Mr. PETERS, with an amendment

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

A BILL

To correct the inequitable denial of enhanced retirement and
annuity benefits to certain U.S. Customs and Border
Protection Officers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “U.S. Customs and Bor-
3 der Protection Officer Retirement Technical Corrections
4 Act”.

5 **SEC. 2. ADJUSTMENT RELATED TO TRANSITION RULES.**

6 (a) **DEFINED TERM.**—In this section the term “Eligi-
7 ble Individual” means any individual who—

8 (1) received and accepted an offer of employ-
9 ment as a U.S. Customs and Border Protection Offi-
10 cer before July 6, 2008; and

11 (2) entered into duty as a U.S. Customs and
12 Border Protection officer on or after July 6, 2008;
13 as a result of an offer described in paragraph (1).

14 (b) **TREATMENT OF ELIGIBLE INDIVIDUALS.**—Eligi-
15 ble Individuals—

16 (1) are considered to be individuals serving as
17 U.S. Customs and Border Protection Officers on
18 July 6, 2008, for purposes of section 535(e) of the
19 Department of Homeland Security Appropriations
20 Act, 2008 (division E of Public Law 110–161; 121
21 Stat. 1844); and

22 (2) are entitled to—

23 (A) the minimum annuity amount required
24 under section 535(e)(2)(C) of such Act; and

1 ~~(B)~~ an exemption from mandatory retire-
 2 ment otherwise required under section
 3 8425(b)(1) of title 5, United States Code.

4 ~~(c)~~ IMPLEMENTATION.—

5 ~~(1)~~ SUBMISSION OF INFORMATION.—Not later
 6 than 120 days after the date of the enactment of
 7 this Act, the Secretary of Homeland Security shall—

8 ~~(A)~~ create a list of all Eligible Individuals;

9 ~~(B)~~ notify each Eligible Individual of the
 10 annuity correction described in subsection (b);
 11 and

12 ~~(C)~~ provide the Director of the Office of
 13 Personnel Management with all of the informa-
 14 tion that is necessary for making annuity cor-
 15 rections with respect to Eligible Individuals.

16 ~~(2)~~ COMPLETION OF ANNUITY CORRECTION.—

17 After receiving the information described in para-
 18 graph ~~(1)~~(C), the Director of the Office of Personnel
 19 Management shall make the annuity correction de-
 20 scribed in subsection (b) with respect to each Eligi-
 21 ble Individual, including a retroactive annuity ad-
 22 justment for Eligible Individuals who retired before
 23 the date of the enactment of this Act.

24 ~~(d)~~ WAIVERS AND GUIDANCE.—

1 (1) ~~WAIVERS.~~—The Secretary of Homeland Se-
 2 curity may retroactively waive the maximum entry
 3 age requirement under ~~§ 307(g)~~ of title 5, United
 4 States Code, to the extent necessary, to ensure that
 5 each Eligible Individual is eligible for immediate re-
 6 irement with the annuity correction described in
 7 subsection (b).

8 (2) ~~GUIDANCE.~~—The Director of the Office of
 9 Personnel Management, in consultation with the
 10 Secretary of Homeland Security, shall issue appro-
 11 priate guidance to assist in the implementation of
 12 the annuity correction described in subsection (b).

13 **SECTION 1. SHORT TITLE.**

14 *This Act may be cited as the “U.S. Customs and Bor-*
 15 *der Protection Officer Retirement Technical Corrections*
 16 *Act”.*

17 **SEC. 2. ADJUSTMENT RELATED TO TRANSITION RULES.**

18 (a) *DEFINED TERM.*—*In this section the term “Eligi-*
 19 *ble Individual” means any individual who—*

20 (1) *received and accepted an offer of employment*
 21 *as a U.S. Customs and Border Protection Officer be-*
 22 *fore July 6, 2008; and*

23 (2) *entered into duty as a U.S. Customs and*
 24 *Border Protection officer on or after July 6, 2008 as*
 25 *a result of an offer described in paragraph (1).*

1 (b) *TREATMENT OF ELIGIBLE INDIVIDUALS.—Eligible*
2 *Individuals—*

3 (1) *are considered to be individuals serving as*
4 *U.S. Customs and Border Protection Officers on July*
5 *6, 2008, for purposes of section 535(e) of the Depart-*
6 *ment of Homeland Security Appropriations Act, 2008*
7 *(division E of Public Law 110–161; 121 Stat. 1844);*
8 *and*

9 (2) *are entitled to—*

10 (A) *the minimum annuity amount required*
11 *under section 535(e)(2)(C) of such Act; and*

12 (B) *an exemption from mandatory retire-*
13 *ment otherwise required under section 8425(b)(1)*
14 *of title 5, United States Code.*

15 (c) *IMPLEMENTATION.—*

16 (1) *SUBMISSION OF INFORMATION.—Not later*
17 *than 120 days after the date of the enactment of this*
18 *Act, the Secretary of Homeland Security shall—*

19 (A) *create a list of all Eligible Individuals;*

20 (B) *notify each Eligible Individual of the*
21 *annuity correction described in subsection (b);*
22 *and*

23 (C) *provide the Director of the Office of Per-*
24 *sonnel Management with all of the information*

1 *that is necessary for making annuity corrections*
 2 *with respect to Eligible Individuals.*

3 (2) *COMPLETION OF ANNUITY CORRECTION.—*

4 *After receiving the information described in para-*
 5 *graph (1)(C), the Director of the Office of Personnel*
 6 *Management shall make the annuity correction de-*
 7 *scribed in subsection (b) with respect to each Eligible*
 8 *Individual, including a retroactive annuity adjust-*
 9 *ment for Eligible Individuals who retired before the*
 10 *date of the enactment of this Act.*

11 (d) *WAIVERS AND GUIDANCE.—*

12 (1) *WAIVERS.—The Secretary of Homeland Se-*
 13 *curity may retroactively waive the maximum entry*
 14 *age requirement under 3307(g) of title 5, United*
 15 *States Code, to the extent necessary, to ensure that*
 16 *each Eligible Individual is eligible for immediate re-*
 17 *irement with the annuity correction described in sub-*
 18 *section (b).*

19 (2) *GUIDANCE.—The Director of the Office of*
 20 *Personnel Management, in consultation with the Sec-*
 21 *retary of Homeland Security, shall issue appropriate*
 22 *guidance to assist in the implementation of the annu-*
 23 *ity correction described in subsection (b).*

24 (e) *GOVERNMENT ACCOUNTABILITY OFFICE.—The*
 25 *Comptroller General of the United States—*

1 (1) shall review U.S. Customs and Border Pro-
2 tection (referred to in this subsection as “CBP”) hir-
3 ing practices, policies, and procedures related to eligi-
4 bility for enhanced retirement benefits referred to in
5 this section by assessing—

6 (A) the process for determining whether an
7 employee qualifies for such benefits, including
8 considering any potential factors that would
9 make an employee ineligible for such enhanced
10 retirement benefits;

11 (B) the internal controls used by CBP to
12 ensure that all eligible employees, and only eligi-
13 ble employees, receive such enhanced retirement
14 benefits;

15 (C) the policies regarding the use of employ-
16 ees’ personnel files to ensure compliance with
17 current laws governing retirement benefits; and

18 (D) the adequacy of the training provided
19 to CBP senior executives regarding human re-
20 sources and hiring practices at CBP; and

21 (2) not later than 18 months after the date of the
22 enactment of this Act, shall submit a report to the
23 Committee on Homeland Security and Governmental
24 Affairs of the Senate and the Committee on Home-
25 land Security of the House of Representatives that de-

- 1 *scribes the results of the review conducted pursuant to*
- 2 *paragraph (1).*

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