

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.

S. 3868

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. PETERS (for himself and Mr.
PORTMAN)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

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

7 (b) TREATMENT OF ELIGIBLE INDIVIDUALS.—Eligi-
8 ble Individuals—

9 (1) are considered to be individuals serving as
10 U.S. Customs and Border Protection Officers on
11 July 6, 2008, for purposes of section 535(e) of the
12 Department of Homeland Security Appropriations
13 Act, 2008 (division E of Public Law 110–161; 121
14 Stat. 1844); and

15 (2) are entitled to—

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

18 (B) an exemption from mandatory retire-
19 ment otherwise required under section
20 8425(b)(1) of title 5, United States Code.

21 (c) IMPLEMENTATION.—

22 (1) SUBMISSION OF INFORMATION.—Not later
23 than 120 days after the date of the enactment of
24 this Act, the Secretary of Homeland Security shall—

25 (A) create a list of all Eligible Individuals;

1 (B) notify each Eligible Individual of the
2 annuity correction described in subsection (b);
3 and

4 (C) provide the Director of the Office of
5 Personnel Management with all of the informa-
6 tion that is necessary for making annuity cor-
7 rections with respect to Eligible Individuals.

8 (2) COMPLETION OF ANNUITY CORRECTION.—

9 After receiving the information described in para-
10 graph (1)(C), the Director of the Office of Personnel
11 Management shall make the annuity correction de-
12 scribed in subsection (b) with respect to each Eligi-
13 ble Individual, including a retroactive annuity ad-
14 justment for Eligible Individuals who retired before
15 the date of the enactment of this Act.

16 (d) WAIVERS AND GUIDANCE.—

17 (1) WAIVERS.—The Secretary of Homeland Se-
18 curity may retroactively waive the maximum entry
19 age requirement under 3307(g) of title 5, United
20 States Code, to the extent necessary, to ensure that
21 each Eligible Individual is eligible for immediate re-
22 tirement with the annuity correction described in
23 subsection (b).

24 (2) GUIDANCE.—The Director of the Office of
25 Personnel Management, in consultation with the

1 Secretary of Homeland Security, shall issue appro-
2 priate guidance to assist in the implementation of
3 the annuity correction described in subsection (b).

4 (e) GOVERNMENT ACCOUNTABILITY OFFICE.—The
5 Comptroller General of the United States—

6 (1) shall review U.S. Customs and Border Pro-
7 tection (referred to in this subsection as “CBP”)
8 hiring practices, policies, and procedures related to
9 eligibility for enhanced retirement benefits referred
10 to in this section by assessing—

11 (A) the process for determining whether an
12 employee qualifies for such benefits, including
13 considering any potential factors that would
14 make an employee ineligible for such enhanced
15 retirement benefits;

16 (B) the internal controls used by CBP to
17 ensure that all eligible employees, and only eli-
18 gible employees, receive such enhanced retire-
19 ment benefits;

20 (C) the policies regarding the use of em-
21 ployees’ personnel files to ensure compliance
22 with current laws governing retirement benefits;
23 and

1 (D) the adequacy of the training provided
2 to CBP senior executives regarding human re-
3 sources and hiring practices at CBP; and
4 (2) not later than 18 months after the date of
5 the enactment of this Act, shall submit a report to
6 the Committee on Homeland Security and Govern-
7 mental Affairs of the Senate and the Committee on
8 Homeland Security of the House of Representatives
9 that describes the results of the review conducted
10 pursuant to paragraph (1).