

111TH CONGRESS
1ST SESSION

H. R. 4091

To amend titles 18 and 28 of the United States Code to provide incentives for the prompt payments of debts owed to the United States and the victims of crime by imposing late fees on unpaid judgments owed to the United States and to the victims of crime, to provide for offsets on amounts collected by the Department of Justice for Federal agencies, to increase the amount of special assessments imposed upon convicted persons, to establish an Enhanced Financial Recovery Fund to enhance, supplement, and improve the debt collection activities of the Department of Justice, to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2009

Mr. DELAHUNT (for himself, Mr. GOHMERT, Mr. JOHNSON of Georgia, Mr. FRANKS of Arizona, Mr. MORAN of Virginia, Mr. CAO, Mr. HASTINGS of Florida, Mr. MCCAUL, Mrs. DAVIS of California, Mr. SCHIFF, Mr. DANIEL E. LUNGREN of California, Mr. PIERLUISI, Ms. BALDWIN, Mr. DAVIS of Alabama, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend titles 18 and 28 of the United States Code to provide incentives for the prompt payments of debts owed to the United States and the victims of crime by imposing late fees on unpaid judgments owed to the United States and to the victims of crime, to provide for offsets

on amounts collected by the Department of Justice for Federal agencies, to increase the amount of special assessments imposed upon convicted persons, to establish an Enhanced Financial Recovery Fund to enhance, supplement, and improve the debt collection activities of the Department of Justice, to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers, and for other purposes.

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 “Enhanced Restitution
 5 Enforcement and Equitable Retirement Treatment Act of
 6 2009”.

7 **SEC. 2. TABLE OF CONTENTS.**

8 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—ENHANCED FINANCIAL RECOVERY

- Sec. 101. Unpaid fines and restitution.
- Sec. 102. Remission of criminal monetary penalties.
- Sec. 103. Prioritization of restitution efforts.
- Sec. 104. Imposition of civil late fee.
- Sec. 105. Increase in the amount of special assessments.
- Sec. 106. Enhanced financial recovery fund.
- Sec. 107. Effective dates.

TITLE II—EQUITABLE RETIREMENT TREATMENT OF ASSISTANT
 UNITED STATES ATTORNEYS

- Sec. 201. Retirement treatment of assistant United States attorneys.
- Sec. 202. Provisions relating to incumbents.
- Sec. 203. Agency share contributions.
- Sec. 204. Effective date.

1 **TITLE I—ENHANCED FINANCIAL**
2 **RECOVERY**

3 **SEC. 101. UNPAID FINES AND RESTITUTION.**

4 (a) IN GENERAL.—Section 3612 of title 18, United
5 States Code, is amended—

6 (1) by striking subsections (d), (e), (g), (h), and
7 (i); and

8 (2) by inserting after subsection (c) the fol-
9 lowing:

10 “(d) IMPOSITION OF LATE FEE.—

11 “(1) IN GENERAL.—A late fee shall be imposed
12 upon a defendant if fines or restitution obligations
13 of the defendant totaling not less than \$2,500 un-
14 paid as of the date specified in subsection (f)(1).
15 The late fee imposed under this paragraph shall be
16 5 percent of the unpaid principal balance for an in-
17 dividual and 10 percent for any other person.

18 “(2) ALLOCATION OF PAYMENTS.—

19 “(A) FINE.—Subject to subparagraph (C),
20 if a late fee is imposed under paragraph (1) for
21 a fine—

22 “(i) an amount equal to 95 percent of
23 each payment made by a defendant shall
24 be credited to the Crime Victims Fund es-
25 tablished under section 1402 of the Vic-

1 tims of Crime Act of 1984 (42 U.S.C.
2 10601) or as otherwise provided in that
3 section; and

4 “(ii) an amount equal to 5 percent of
5 each payment shall be credited to the De-
6 partment of Justice Enhanced Financial
7 Recovery Fund established under section
8 106 of the Enhanced Restitution Enforce-
9 ment and Equitable Retirement Treatment
10 Act of 2009.

11 “(B) RESTITUTION.—Subject to subpara-
12 graph (C), if a late fee is imposed under para-
13 graph (1) for a restitution obligation—

14 “(i) an amount equal to 95 percent of
15 each payment shall be paid to any victim
16 identified by the court; and

17 “(ii) an amount equal to 5 percent of
18 each payment shall be credited to the De-
19 partment of Justice Enhanced Financial
20 Recovery Fund established under section
21 106 of the Enhanced Restitution Enforce-
22 ment and Equitable Retirement Treatment
23 Act of 2009.

24 “(C) ORDER OF PAYMENTS.—Payments
25 for fines or restitution shall be applied first to

1 the principal and, if any, the late fee under
2 paragraph (1). If the amount due on either the
3 principal or the late fee has been paid in full
4 and the other amount due remains unpaid, all
5 payments for fines or restitution shall then be
6 applied to the other unpaid obligation. If the
7 principal and the late fee have been paid in full,
8 all payments for fines or restitution shall then
9 be applied to interest.

10 “(3) DEFINITIONS.—In this subsection—

11 “(A) the term ‘fines or restitution obliga-
12 tions’ does not include any amount that is im-
13 posed as interest, costs, or a late fee;

14 “(B) the term ‘principal’ does not include
15 any amount that is imposed as interest, pen-
16 alty, or a late fee; and

17 “(C) the term ‘restitution’ includes any un-
18 paid balance due to a person identified in any
19 judgment, or order of restitution, entered in
20 any criminal case.

21 “(e) WAIVER OF INTEREST, PENALTY, OR LATE
22 FEES.—

23 “(1) IN GENERAL.—The Attorney General may
24 waive all or part of any interest or late fee under
25 this section or any interest or penalty imposed under

1 any other provision of law if the Attorney General
2 determines that reasonable efforts to collect the in-
3 terest, late fee, or penalty are not likely to be effec-
4 tive.

5 “(2) WAIVER BY COURT.—The court may waive
6 the uncollected portion of a late fee, upon the mo-
7 tion of the defendant, and a showing, by a prepon-
8 derance of the evidence, that—

9 “(A) the defendant has made a good faith
10 effort to satisfy all unpaid fines or restitution
11 obligations;

12 “(B) despite the good faith efforts of the
13 defendant, the defendant is not likely to satisfy
14 the obligations within the time provided for
15 under section 3613 of this title; and

16 “(C) the continued collection of a late fee
17 would constitute an undue burden upon the de-
18 fendant.”.

19 (b) REPEAL OF DELINQUENCY AND DEFAULT PRO-
20 VISIONS.—Section 3572 of title 18, United States Code,
21 is amended by striking subsections (h) and (i).

22 **SEC. 102. REMISSION OF CRIMINAL MONETARY PENALTIES.**

23 Section 3573 of title 18, United States Code, is
24 amended to read as follows:

1 **“§ 3573. Petition of the Government for modification**
2 **or remission**

3 “(a) IN GENERAL.—Upon petition of the Govern-
4 ment showing that reasonable efforts to collect a fine, res-
5 titution obligation, or special assessment are not likely to
6 be effective, the court may, in the interest of justice, remit
7 all or any part of the fine, restitution obligation, or special
8 assessment, including interest, penalty, and late fees.

9 “(b) VICTIMS OTHER THAN THE UNITED STATES.—
10 In the case of a restitution obligation owed to a victim
11 other than the United States, the express and clearly vol-
12 untary consent of the victim is required before the court
13 may grant such petition. No defendant shall initiate con-
14 tact with a victim for the purpose of securing consent to
15 a possible remission except through counsel, the United
16 States attorney, or in such a manner as first approved
17 by the court as safe and noncoercive.”.

18 **SEC. 103. PRIORITIZATION OF RESTITUTION EFFORTS.**

19 Section 3771 of title 18, United States Code, is
20 amended by adding the following subsection:

21 “(g) GUIDELINES.—

22 “(1) IN GENERAL.—The Attorney General shall
23 promulgate guidelines to ensure the effective and ef-
24 ficient enforcement of all criminal and civil obliga-
25 tions which are owed to the United States and en-
26 forced by the Department of Justice.

1 “(2) CONTENTS.—The guidelines promulgated
2 under paragraph (1) shall require consideration, in
3 making decisions relating to enforcement of criminal
4 and civil obligations which are owed to the United
5 States, of the amount due, the amount collectible,
6 and whether the amount is due to individuals who
7 are not likely to be able to enforce the obligation
8 without assistance from the Department of Jus-
9 tice.”.

10 **SEC. 104. IMPOSITION OF CIVIL LATE FEE.**

11 (a) IN GENERAL.—Section 3011 of title 28, United
12 States Code, is amended to read as follows:

13 **“§ 3011. Imposition of late fee**

14 “(a) IN GENERAL.—A late fee shall be imposed on
15 a defendant if there is an unpaid balance due to the
16 United States on any money judgment in a civil matter
17 recovered in a district court as of—

18 “(1) the fifteenth day after the date of the
19 judgment; or

20 “(2) if the day described in paragraph (1) is a
21 Saturday, Sunday, or legal public holiday, the next
22 day that is not a Saturday, Sunday, or legal holiday.

23 (b) AMOUNT OF LATE FEE.—A late fee imposed
24 under subsection (a) shall be 5 percent of the unpaid prin-

1 cipal balance for an individual and 10 percent for any
2 other person.

3 “(c) ALLOCATION OF PAYMENTS.—Subject to sub-
4 section (d), if a late fee is imposed under subsection (a)—

5 “(1) an amount equal to 95 percent of each
6 principal payment made by a defendant shall be
7 credited as otherwise provided by law; and

8 “(2) an amount equal to 5 percent of each prin-
9 cipal payment shall be credited to the Department of
10 Justice Enhanced Financial Recovery Fund estab-
11 lished under section 106 of the Enhanced Financial
12 Recovery and Equitable Retirement Treatment Act
13 of 2007.

14 “(d) ORDER OF PAYMENTS.—Payments for a money
15 judgment in a civil matter shall be applied first to the
16 principal and, if any, the late fee under subsection (a).
17 If the amount due on either the principal or the late fee
18 has been paid in full and the other amount due remains
19 unpaid, all payments for a money judgment in a civil mat-
20 ter shall be applied to the other unpaid obligation. If the
21 principal and the late fee have been paid in full, all pay-
22 ments for a money judgment in a civil matter shall then
23 be applied to interest.

24 “(e) DEFINITIONS.—In this section—

1 “(i) the amount of \$10 in the case of
2 an infraction or a class C misdemeanor;

3 “(ii) the amount of \$25 in the case of
4 a class B misdemeanor; and

5 “(iii) the amount of \$100 in the case
6 of a class A misdemeanor; and

7 “(B) if the defendant is a person other
8 than an individual—

9 “(i) the amount of \$100 in the case of
10 an infraction or a class C misdemeanor;

11 “(ii) the amount of \$200 in the case
12 of a class B misdemeanor; and

13 “(iii) the amount of \$500 in the case
14 of a class A misdemeanor; and

15 “(2) in the case of a felony—

16 “(A) the amount of \$100 if the defendant
17 is an individual; and

18 “(B) the amount of \$1,000 if the defend-
19 ant is not an individual.”.

20 **SEC. 106. ENHANCED FINANCIAL RECOVERY FUND.**

21 (a) **ESTABLISHMENT.**—There is established in the
22 Treasury a separate account known as the Department
23 of Justice Enhanced Financial Recovery Fund (in this sec-
24 tion referred to as the “Fund”).

1 (b) DEPOSITS.—Notwithstanding section 3302 of
2 title 31, United States Code, or any other law regarding
3 the crediting of collections, there shall be credited as an
4 offsetting collection to the Fund an amount equal to—

5 (1) 2 percent of any amount collected pursuant
6 to civil debt collection litigation activities of the De-
7 partment of Justice (in addition to any amount
8 credited under section 11013 of the 21st Century
9 Department of Justice Appropriations Authorization
10 Act (28 U.S.C. 527 note));

11 (2) 5 percent of all amounts collected as res-
12 titution due to the United States pursuant to the
13 criminal debt collection litigation activities of the
14 Department of Justice; and

15 (3) any late fee collected under section 3612 of
16 title 18, United States Code, as amended by this
17 Act, or section 3011 of title 28, United States Code,
18 as amended by this Act.

19 (c) AVAILABILITY.—The amounts credited to the
20 Fund shall remain available until expended.

21 (d) PAYMENTS FROM THE FUND TO SUPPORT EN-
22 HANCED ENFORCEMENT OF JUDGMENTS.—

23 (1) USE FOR COLLECTION.—

24 (A) IN GENERAL.—Except as provided in
25 paragraph (2), the Attorney General shall use

1 not less than \$20,000,000 of the Fund in each
2 fiscal year, to the extent that funds are avail-
3 able, for the collection of civil and criminal
4 judgments by the Department of Justice, in-
5 cluding restitution judgments where the bene-
6 ficiaries are the victims of crime.

7 (B) ALLOCATION.—The funds described in
8 subparagraph (A) shall be used to enhance,
9 supplement, and improve the civil and criminal
10 judgment enforcement efforts of the Depart-
11 ment of Justice first, and primarily for such ac-
12 tivities by United States attorneys' offices. A
13 portion of the funds described in subparagraph
14 (A) may be used by the Attorney General to
15 provide legal, investigative, accounting, and
16 training support to the United States attorneys'
17 offices in carrying out civil and criminal debt
18 collection activities.

19 (C) LIMITATION.—The funds described in
20 subparagraph (A) may not be used to determine
21 whether a defendant is guilty of an offense or
22 liable to the United States, except incidentally
23 for the provision of assistance necessary or de-
24 sirable in a case to ensure the preservation of
25 assets or the imposition of a judgment, which

1 assists in the enforcement of a judgment, or in
2 a proceeding directly related to the failure of a
3 defendant to satisfy the monetary portion of a
4 judgment.

5 (2) ADJUSTMENT OF AMOUNT.—In each fiscal
6 year following the first fiscal year in which deposits
7 into the Fund are greater than \$20,000,000, the
8 amount to be used under paragraph (1)(A) shall be
9 increased by a percentage equal to the change in the
10 Consumer Price Index published by the Bureau of
11 Labor Statistics of the Department of Labor for the
12 calendar year preceding that fiscal year.

13 (3) LIMITATION.—In any fiscal year, amounts
14 in the Fund shall be available to the extent that the
15 amount appropriated in that fiscal year for the pur-
16 poses described in paragraph (1) is not less than an
17 amount equal to the amount appropriated for such
18 activities in fiscal year 2006, adjusted annually in
19 the same proportion as increases reflected in the
20 amount of aggregate level of appropriations for the
21 Executive Office of United States Attorneys and
22 United States Attorneys.

23 (e) CURRENT AGENCY SHARE CONTRIBUTIONS.—
24 After expending amounts in the Fund as provided under
25 subsection (d), the Attorney General may use amounts re-

1 maining in the Fund to offset additional agency share con-
2 tributions made by the Department of Justice for per-
3 sonnel benefit expenses incurred as a result of this Act
4 or the amendments made by this Act relating to service
5 as an assistant United States attorney on or after the date
6 of enactment of this Act. The availability of amounts from
7 the Fund shall have no effect on the implementation of
8 title II or the amendments made by title II.

9 (f) RETROACTIVE AGENCY SHARE CONTRIBU-
10 TIONS.—After expending amounts in the Fund as pro-
11 vided under subsection (e), the Attorney General may use
12 amounts remaining in the Fund to offset agency share
13 contributions made by the Department of Justice for per-
14 sonnel benefit expenses incurred as a result of this Act
15 or the amendments made by this Act relating to service
16 as an assistant United States attorney before the date of
17 enactment of this Act.

18 (g) REBATE OF AGENCY OFFSETS.—After expending
19 amounts in the Fund as provided under subsection (f),
20 all amounts remaining in the Fund shall be credited, pro-
21 portionally, to the Federal agencies on behalf of which
22 debt collection litigation activities were conducted that re-
23 sulted in deposits under paragraph (1) or (2) of subsection
24 (b) during that fiscal year.

1 (h) PAYMENTS TO THE GENERAL FUND.—After ex-
2 pending amounts in the Fund as provided under sub-
3 section (g), all amounts remaining in the Fund shall be
4 deposited with the General Fund of the United States
5 Treasury.

6 (i) DEFINITION.—In this section, the term “United
7 States”—

8 (1) includes—

9 (A) the executive departments, the judicial
10 and legislative branches, the military depart-
11 ments, and independent establishments of the
12 United States; and

13 (B) corporations primarily acting as in-
14 strumentalities or agencies of the United
15 States; and

16 (2) except as provided in paragraph (1), does
17 not include any contractor of the United States.

18 **SEC. 107. EFFECTIVE DATES.**

19 (a) IN GENERAL.—Except as provided in this section,
20 this title and the amendments made by this title shall take
21 effect 30 days after the date of enactment of this Act.

22 (b) CRIMINAL CASES.—The amendments made by
23 section 105 and subsection (d) of section 3612 of title 18,
24 United States Code, as added by section 101 of this Act,
25 shall apply to any offense committed on or after the date

1 of enactment of this Act, including any offense which in-
 2 cludes conduct that continued on or after the date of en-
 3 actment of this Act.

4 (c) CIVIL CASES.—The amendments made by section
 5 104 shall apply to any case pending on or after the date
 6 of enactment of this Act.

7 **TITLE II—EQUITABLE RETIRE-**
 8 **MENT TREATMENT OF AS-**
 9 **SISTANT UNITED STATES AT-**
 10 **TORNEYS**

11 **SEC. 201. RETIREMENT TREATMENT OF ASSISTANT UNITED**
 12 **STATES ATTORNEYS.**

13 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

14 (1) ASSISTANT UNITED STATES ATTORNEY DE-
 15 FINED.—Section 8331 of title 5, United States
 16 Code, is amended—

17 (A) in paragraph (28), by striking “and”
 18 at the end;

19 (B) in paragraph (29) relating to dynamic
 20 assumptions, by striking the period and insert-
 21 ing a semicolon;

22 (C) by redesignating paragraph (29) relat-
 23 ing to air traffic controllers as paragraph (30);

1 (D) in paragraph (30), as so redesignated,
2 by striking the period and inserting “; and”;
3 and

4 (E) by adding at the end the following:

5 “(31) ‘assistant United States attorney’—

6 “(A) means an assistant United States at-
7 torney appointed under section 542 of title 28;
8 and

9 “(B) includes an individual—

10 “(i) appointed United States attorney
11 under section 541 or 546 of title 28;

12 “(ii) who has previously served as an
13 assistant United States attorney; and

14 “(iii) who elects under section 202 of
15 the Enhanced Restitution Enforcement
16 and Equitable Retirement Treatment Act
17 of 2009 to be treated as an assistant
18 United States attorney and solely for the
19 purposes of this title.”.

20 (2) RETIREMENT TREATMENT.—Chapter 83 of
21 title 5, United States Code, is amended by adding
22 after section 8351 the following:

23 **“§ 8352. Assistant United States attorneys**

24 “An assistant United States attorney shall be treated
25 in the same manner and to the same extent as a law en-

1 enforcement officer for purposes of this chapter, except as
2 follows:

3 “(1) Section 8335(b)(1) of this title (relating to
4 mandatory separation) shall not apply.

5 “(2) Section 8336(c)(1) of this title (relating to
6 immediate retirement at age 50 with 20 years of
7 service as a law enforcement officer) shall apply to
8 assistant United States attorneys except the age for
9 immediate retirement eligibility shall be 57 instead
10 of 50.”.

11 (3) TECHNICAL AND CONFORMING AMEND-
12 MENTS.—

13 (A) TABLE OF SECTIONS.—The table of
14 sections for chapter 83 of title 5, United States
15 Code, is amended by inserting after the item re-
16 lating to section 8351 the following:

“Sec. 8352. Assistant United States attorneys.”.

17 (B) MANDATORY SEPARATION.—Section
18 8335(a) of title 5, United States Code, is
19 amended by striking “8331(29)(A)” and insert-
20 ing “8331(30)(A)”.

21 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

22 (1) ASSISTANT UNITED STATES ATTORNEY DE-
23 FINED.—Section 8401 of title 5, United States
24 Code, is amended—

1 (A) in paragraph (34), by striking “and”
2 at the end;

3 (B) in paragraph (35), by striking the pe-
4 riod and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(36) ‘assistant United States attorney’—

7 “(A) means an assistant United States at-
8 torney appointed under section 542 of title 28;
9 and

10 “(B) includes an individual—

11 “(i) appointed United States attorney
12 under section 541 or 546 of title 28;

13 “(ii) who has previously served as an
14 assistant United States attorney; and

15 “(iii) who elects under section 202 of
16 the Enhanced Restitution Enforcement
17 and Equitable Retirement Treatment Act
18 of 2009 to be treated as an assistant
19 United States attorney and solely for the
20 purposes of this title.”.

21 (2) RETIREMENT TREATMENT.—Section 8402
22 of title 5, United States Code, is amended by adding
23 at the end the following: “An assistant United
24 States attorney shall be treated in the same manner

1 and to the same extent as a law enforcement officer
2 for purposes of this chapter, except as follows:

3 “(1) Section 8425(b)(1) of this title (relating to
4 mandatory separation) shall not apply.

5 “(2) Section 8412(d) of this title (relating to
6 immediate retirement at age 50 with 20 years of
7 service as a law enforcement officer) shall apply to
8 assistant United States attorneys except the age for
9 immediate retirement eligibility shall be 57 instead
10 of 50.”.

11 (c) MANDATORY SEPARATION.—Sections 8335(b)(1)
12 and 8425(b)(1) of title 5, United States Code, are each
13 amended by adding at the end the following: “This sub-
14 section shall not apply in the case of an assistant United
15 States attorney.”.

16 **SEC. 202. PROVISIONS RELATING TO INCUMBENTS.**

17 (a) DEFINITIONS.—In this section—

18 (1) the term “assistant United States attorney”
19 means an assistant United States attorney appointed
20 under section 542 of title 28, United States Code;
21 and

22 (2) the term “incumbent” means an individual
23 who, on the date of enactment of this Act—

24 (A) is serving as an assistant United
25 States attorney;

1 (B) is serving as a United States Attorney
2 appointed under section 541 or 546 of title 28,
3 United States Code; or

4 (C) is employed by the Department of Jus-
5 tice and has served at least 10 years as an as-
6 sistant United States attorney.

7 (b) NOTICE REQUIREMENT.—Not later than 180
8 days after the date of enactment of this Act, the Depart-
9 ment of Justice shall take measures reasonably designed
10 to provide notice to incumbents on—

11 (1) their election rights under this title; and

12 (2) the effects of making or not making a time-
13 ly election under this title.

14 (c) ELECTION AVAILABLE TO INCUMBENTS.—

15 (1) IN GENERAL.—An incumbent may elect, for
16 all purposes, to be treated—

17 (A) in accordance with the amendments
18 made by this title; or

19 (B) as if this title had never been enacted.

20 (2) TIME LIMITATION.—An election under this
21 subsection shall not be effective unless the election
22 is made not later than the earlier of—

23 (A) 180 days after the date on which the
24 notice under subsection (b) is provided; or

1 (B) the date on which the incumbent in-
2 volved separates from service.

3 (3) FAILURE TO ELECT.—Failure to make a
4 timely election under this subsection shall be
5 deemed—

6 (A) for an assistant United States attor-
7 ney, as an election under paragraph (1)(A); and

8 (B) for any other incumbent, as an election
9 under paragraph (1)(B).

10 (d) LIMITED RETROACTIVE EFFECT.—

11 (1) EFFECT ON RETIREMENT.—In the case of
12 an incumbent who elects (or is deemed to have elect-
13 ed) the option under subsection (c)(1)(A), all service
14 performed by that individual as an assistant United
15 States attorney shall—

16 (A) to the extent performed on or after the
17 effective date of that election, be treated in ac-
18 cordance with applicable provisions of sub-
19 chapter III of chapter 83 or chapter 84 of title
20 5, United States Code, as amended by this title;
21 and

22 (B) to the extent performed before the ef-
23 fective date of that election, be treated in ac-
24 cordance with applicable provisions of sub-
25 chapter III of chapter 83 or chapter 84 of title

1 5, United States Code, as if the amendments
2 made by this title had then been in effect.

3 (2) CREDITABLE SERVICE.—All service per-
4 formed by an incumbent under an appointment
5 under section 515, 541, 543, or 546 of title 28,
6 United States Code, and while concurrently em-
7 ployed by the Department of Justice shall be cred-
8 ited in the same manner as if performed as an as-
9 sistant United States attorney.

10 (3) NO OTHER RETROACTIVE EFFECT.—Noth-
11 ing in this title (including the amendments made by
12 this title) shall affect any of the terms or conditions
13 of an individual's employment (apart from those
14 governed by subchapter III of chapter 83 or chapter
15 84 of title 5, United States Code) with respect to
16 any period of service preceding the date on which
17 such individual's election under subsection (c) is
18 made (or is deemed to have been made).

19 (e) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERV-
20 ICE.—

21 (1) IN GENERAL.—An individual who makes an
22 election under subsection (c)(1)(A) shall, with re-
23 spect to prior service performed by such individual,
24 deposit, with interest, to the Civil Service Retire-
25 ment and Disability Fund the difference between the

1 individual contributions that were actually made for
2 such service and the individual contributions that
3 would have been made for such service if the amend-
4 ments made by this title had then been in effect.

5 (2) EFFECT OF NOT CONTRIBUTING.—If the
6 deposit required under paragraph (1) is not paid, all
7 prior service of the incumbent shall remain fully
8 creditable as law enforcement officer service, but the
9 resulting annuity shall be reduced in a manner simi-
10 lar to that described in section 8334(d)(2)(B) of
11 title 5, United States Code.

12 (3) PRIOR SERVICE DEFINED.—In this sub-
13 section, the term “prior service” means, with respect
14 to any individual who makes an election (or is
15 deemed to have made an election) under subsection
16 (c)(1)(A), all service credited as an assistant United
17 States attorney, but not exceeding 20 years, per-
18 formed by such individual before the date as of
19 which applicable retirement deductions begin to be
20 made in accordance with such election.

21 (f) REGULATIONS.—The Office of Personnel Manage-
22 ment shall prescribe regulations necessary to carry out
23 this title, including provisions under which any interest
24 due on the amount described under subsection (e) shall
25 be determined.

1 **SEC. 203. AGENCY SHARE CONTRIBUTIONS.**

2 (a) IN GENERAL.—The cost for current agency share
3 contributions for personnel benefits incurred as a result
4 of this Act or the amendments made by this Act may be
5 paid from the Enhanced Financial Recovery Fund. If in
6 any fiscal year the Fund does not have a sufficient amount
7 on deposit to satisfy the cost for current agency share con-
8 tributions for personnel benefits incurred as a result of
9 this Act or the amendments made by this Act, the amount
10 of the insufficiency shall be due the next fiscal year.

11 (b) RETROACTIVE AGENCY SHARE.—The cost for
12 retroactive agency share contributions for personnel bene-
13 fits incurred as a result of this Act or the amendments
14 made by this Act may be paid from the Enhanced Finan-
15 cial Recovery Fund. Notwithstanding section 8348(f) or
16 section 8423(b) of title 5, United States Code, an amount
17 equal to the amount remaining in the Enhanced Financial
18 Recovery Fund in any fiscal year, after the amounts cred-
19 ited to the Fund have been expended to satisfy the re-
20 quirements of subsections (d) and (e) of section 106 of
21 this Act, shall be credited toward the cost for retroactive
22 agency share contributions for personnel benefits incurred
23 as a result of this Act or the amendments made by this
24 Act until such cost, along with accumulated interest, has
25 been satisfied in full.

1 (c) USE OF FUNDS.—Funds appropriated for the De-
2 partment of Justice shall not be used to pay for the addi-
3 tional cost for current or retroactive agency share con-
4 tributions for personnel benefits incurred as a result of
5 this Act or the amendments made by this Act except as
6 directed by the Attorney General.

7 **SEC. 204. EFFECTIVE DATE.**

8 (a) IN GENERAL.—This title shall take effect on the
9 date of enactment of this Act.

10 (b) INCUMBENTS.—In the case of an incumbent who
11 elects (or is deemed to have elected) the option under sec-
12 tion 202(c)(1)(A) of this title, the election shall not take
13 effect until 24 months after the date of enactment of this
14 Act, except as follows:

15 (1) An incumbent with at least 30 years of
16 service as an assistant United States attorney may
17 choose to have the election take effect at any time
18 between 6 and 24 months after the date of enact-
19 ment of this Act.

20 (2) An incumbent with at least 25 years of
21 service credited as an assistant United States attor-
22 ney may choose to have the election take effect at
23 any time between 12 and 24 months after the enact-
24 ment of this Act.

1 (3) An incumbent with at least 20 years of
2 service credited as an assistant United States attor-
3 ney may, with the approval of the Attorney General,
4 choose to have the election take effect at any time
5 between 6 and 24 months after the date of enact-
6 ment of this Act.

7 (4) An incumbent with at least 20 years service
8 credited as an assistant United States attorney and
9 who is currently serving under an appointment
10 under section 541 or 546 of title 28, United States
11 Code, may choose to have the election take effect at
12 any time between the enactment of this Act and 24
13 months after the date of enactment of this Act.

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