

111TH CONGRESS
1ST SESSION

S. 2786

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 SENATE OF THE UNITED STATES

NOVEMBER 17, 2009

Mr. LEAHY (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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.

9 **TITLE I—ENHANCED FINANCIAL**
 10 **RECOVERY**

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

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

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

3 (2) by inserting after subsection (c) the fol-
4 lowing:

5 “(d) IMPOSITION OF LATE FEE.—

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

13 “(2) ALLOCATION OF PAYMENTS.—

14 “(A) FINE.—Subject to subparagraph (C),
15 if a late fee is imposed under paragraph (1) for
16 a fine—

17 “(i) an amount equal to 95 percent of
18 each payment made by a defendant shall
19 be credited to the Crime Victims Fund es-
20 tablished under section 1402 of the Vic-
21 tims of Crime Act of 1984 (42 U.S.C.
22 10601) or as otherwise provided in that
23 section; and

24 “(ii) an amount equal to 5 percent of
25 each payment shall be credited to the De-

1 partment of Justice Enhanced Financial
2 Recovery Fund established under section
3 106 of the Enhanced Restitution Enforce-
4 ment and Equitable Retirement Treatment
5 Act of 2009.

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

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

12 “(ii) an amount equal to 5 percent of
13 each payment shall be credited to the De-
14 partment of Justice Enhanced Financial
15 Recovery Fund established under section
16 106 of the Enhanced Restitution Enforce-
17 ment and Equitable Retirement Treatment
18 Act of 2009.

19 “(C) ORDER OF PAYMENTS.—Payments
20 for fines or restitution shall be applied first to
21 the principal and, if any, the late fee under
22 paragraph (1). If the amount due on either the
23 principal or the late fee has been paid in full
24 and the other amount due remains unpaid, all
25 payments for fines or restitution shall then be

1 applied to the other unpaid obligation. If the
2 principal and the late fee have been paid in full,
3 all payments for fines or restitution shall then
4 be applied to interest.

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

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

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

12 “(C) the term ‘restitution’ includes any un-
13 paid balance due to a person identified in any
14 judgment, or order of restitution, entered in
15 any criminal case.

16 “(e) WAIVER OF INTEREST, PENALTY, OR LATE
17 FEES.—

18 “(1) IN GENERAL.—The Attorney General may
19 waive all or part of any interest or late fee under
20 this section or any interest or penalty imposed under
21 any other provision of law if the Attorney General
22 determines that reasonable efforts to collect the in-
23 terest, late fee, or penalty are not likely to be effec-
24 tive.

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

5 “(A) the defendant has made a good faith
6 effort to satisfy all unpaid fines or restitution
7 obligations;

8 “(B) despite the good faith efforts of the
9 defendant, the defendant is not likely to satisfy
10 the obligations within the time provided for
11 under section 3613 of this title; and

12 “(C) the continued collection of a late fee
13 would constitute an undue burden upon the de-
14 fendant.”.

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

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

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

21 **“§ 3573. Petition of the Government for modification**
22 **or remission**

23 “(a) IN GENERAL.—Upon petition of the Govern-
24 ment showing that reasonable efforts to collect a fine, res-
25 titution obligation, or special assessment are not likely to

1 be effective, the court may, in the interest of justice, remit
 2 all or any part of the fine, restitution obligation, or special
 3 assessment, including interest, penalty, and late fees.

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

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

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

16 “(g) GUIDELINES.—

17 “(1) IN GENERAL.—The Attorney General shall
 18 promulgate guidelines to ensure the effective and ef-
 19 ficient enforcement of all criminal and civil obliga-
 20 tions which are owed to the United States and en-
 21 forced by the Department of Justice.

22 “(2) CONTENTS.—The guidelines promulgated
 23 under paragraph (1) shall require consideration, in
 24 making decisions relating to enforcement of criminal
 25 and civil obligations which are owed to the United

1 States, of the amount due, the amount collectible,
2 and whether the amount is due to individuals who
3 are not likely to be able to enforce the obligation
4 without assistance from the Department of Jus-
5 tice.”.

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

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

9 **“§ 3011. Imposition of late fee**

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

14 “(1) the fifteenth day after the date of the
15 judgment; or

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

19 “(b) AMOUNT OF LATE FEE.—A late fee imposed
20 under subsection (a) shall be 5 percent of the unpaid prin-
21 cipal balance for an individual and 10 percent for any
22 other person.

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

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

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

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

20 “(e) DEFINITIONS.—In this section—

21 “(1) the term ‘principal’ does not include any
22 amount that is imposed as interest, penalty, or a
23 late fee; and

24 “(2) the term ‘unpaid balance due to the
25 United States’—

1 “(A) includes any unpaid balance due to a
2 person that was represented by the Department
3 of Justice in the civil matter in which the
4 money judgment was entered; and

5 “(B) does not include interest, costs, pen-
6 alties, or late fees.”.

7 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
8 The table of sections for subchapter A of chapter 176 of
9 title 28, United States Code, is amended by striking the
10 item relating to section 3011 and inserting the following:
 “3011. Imposition of late fee.”.

11 **SEC. 105. INCREASE IN THE AMOUNT OF SPECIAL ASSESS-**
12 **MENTS.**

13 Section 3013 of title 18, United States Code, is
14 amended by striking subsection (a) and inserting the fol-
15 lowing:

16 “(a) The court shall assess on any person convicted
17 of an offense against the United States—

18 “(1) in the case of an infraction or a mis-
19 demeanor—

20 “(A) if the defendant is an individual—

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

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

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

3 “(B) if the defendant is a person other
4 than an individual—

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

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

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

11 “(2) in the case of a felony—

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

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

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

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

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

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

7 (2) 5 percent of all amounts collected as res-
8 titution due to the United States pursuant to the
9 criminal debt collection litigation activities of the
10 Department of Justice; and

11 (3) any late fee collected under section 3612 of
12 title 18, United States Code, as amended by this
13 Act, or section 3011 of title 28, United States Code,
14 as amended by this Act.

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

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

19 (1) USE FOR COLLECTION.—

20 (A) IN GENERAL.—Except as provided in
21 paragraph (2), the Attorney General shall use
22 not less than \$20,000,000 of the Fund in each
23 fiscal year, to the extent that funds are avail-
24 able, for the collection of civil and criminal
25 judgments by the Department of Justice, in-

1 including restitution judgments where the bene-
2 ficiaries are the victims of crime.

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

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

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

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

19 (e) CURRENT AGENCY SHARE CONTRIBUTIONS.—
20 After expending amounts in the Fund as provided under
21 subsection (d), the Attorney General may use amounts re-
22 maining in the Fund to offset additional agency share con-
23 tributions made by the Department of Justice for per-
24 sonnel benefit expenses incurred as a result of this Act
25 or the amendments made by this Act relating to service

1 as an assistant United States attorney on or after the date
2 of enactment of this Act. The availability of amounts from
3 the Fund shall have no effect on the implementation of
4 title II or the amendments made by title II.

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

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

21 (h) PAYMENTS TO THE GENERAL FUND.—After ex-
22 pending amounts in the Fund as provided under sub-
23 section (g), all amounts remaining in the Fund shall be
24 deposited with the General Fund of the United States
25 Treasury.

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

3 (1) includes—

4 (A) the executive departments, the judicial
5 and legislative branches, the military depart-
6 ments, and independent establishments of the
7 United States; and

8 (B) corporations primarily acting as in-
9 strumentalities or agencies of the United
10 States; and

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

13 **SEC. 107. EFFECTIVE DATES.**

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

17 (b) CRIMINAL CASES.—The amendments made by
18 section 105 and subsection (d) of section 3612 of title 18,
19 United States Code, as added by section 101 of this Act,
20 shall apply to any offense committed on or after the date
21 of enactment of this Act, including any offense which in-
22 cludes conduct that continued on or after the date of en-
23 actment of this Act.

1 (c) CIVIL CASES.—The amendments made by section
 2 104 shall apply to any case pending on or after the date
 3 of enactment of this Act.

4 **TITLE II—EQUITABLE RETIRE-**
 5 **MENT TREATMENT OF AS-**
 6 **SISTANT UNITED STATES AT-**
 7 **TORNEYS**

8 **SEC. 201. RETIREMENT TREATMENT OF ASSISTANT UNITED**
 9 **STATES ATTORNEYS.**

10 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

11 (1) ASSISTANT UNITED STATES ATTORNEY DE-
 12 FINED.—Section 8331 of title 5, United States
 13 Code, is amended—

14 (A) in paragraph (30), by striking “and”
 15 at the end;

16 (B) in paragraph (31), by striking the pe-
 17 riod and inserting “; and”; and

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

19 “(32) ‘assistant United States attorney’—

20 “(A) means an assistant United States at-
 21 torney appointed under section 542 of title 28;
 22 and

23 “(B) includes an individual—

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

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

3 “(iii) who elects under section 202 of
4 the Enhanced Restitution Enforcement
5 and Equitable Retirement Treatment Act
6 of 2009 to be treated as an assistant
7 United States attorney and solely for the
8 purposes of this title.”.

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

12 **“§ 8352. Assistant United States attorneys**

13 “An assistant United States attorney shall be treated
14 in the same manner and to the same extent as a law en-
15 forcement officer for purposes of this chapter, except as
16 follows:

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

19 “(2) Section 8336(c)(1) of this title (relating to
20 immediate retirement at age 50 with 20 years of
21 service as a law enforcement officer) shall apply to
22 assistant United States attorneys except the age for
23 immediate retirement eligibility shall be 57 instead
24 of 50.”.

1 (3) TECHNICAL AND CONFORMING AMEND-
2 MENTS.—

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

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

7 (B) MANDATORY SEPARATION.—Section
8 8335(a) of title 5, United States Code, is
9 amended by striking “8331(29)(A)” and insert-
10 ing “8331(30)(A)”.

11 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

12 (1) ASSISTANT UNITED STATES ATTORNEY DE-
13 FINED.—Section 8401 of title 5, United States
14 Code, is amended—

15 (A) in paragraph (35), by striking “and”
16 at the end;

17 (B) in paragraph (36), by striking the pe-
18 riod and inserting “; and”; and

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

20 “(37) ‘assistant United States attorney’—

21 “(A) means an assistant United States at-
22 torney appointed under section 542 of title 28;
23 and

24 “(B) includes an individual—

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

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

5 “(iii) who elects under section 202 of
6 the Enhanced Restitution Enforcement
7 and Equitable Retirement Treatment Act
8 of 2009 to be treated as an assistant
9 United States attorney and solely for the
10 purposes of this title.”.

11 (2) RETIREMENT TREATMENT.—Section 8402
12 of title 5, United States Code, is amended by adding
13 at the end the following:

14 “(h) An assistant United States attorney shall be
15 treated in the same manner and to the same extent as
16 a law enforcement officer for purposes of this chapter, ex-
17 cept as follows:

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

20 “(2) Section 8412(d) of this title (relating to
21 immediate retirement at age 50 with 20 years of
22 service as a law enforcement officer) shall apply to
23 assistant United States attorneys except the age for
24 immediate retirement eligibility shall be 57 instead
25 of 50.”.

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

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

7 (a) DEFINITIONS.—In this section—

8 (1) the term “assistant United States attorney”
9 means an assistant United States attorney appointed
10 under section 542 of title 28, United States Code;
11 and

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

14 (A) is serving as an assistant United
15 States attorney;

16 (B) is serving as a United States Attorney
17 appointed under section 541 or 546 of title 28,
18 United States Code; or

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

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

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

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

4 (c) ELECTION AVAILABLE TO INCUMBENTS.—

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

7 (A) in accordance with the amendments
8 made by this title; or

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

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

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

15 (B) the date on which the incumbent in-
16 volved separates from service.

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

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

22 (B) for any other incumbent, as an election
23 under paragraph (1)(B).

24 (d) LIMITED RETROACTIVE EFFECT.—

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

6 (A) to the extent performed on or after the
7 effective date of that election, be treated in ac-
8 cordance with applicable provisions of sub-
9 chapter III of chapter 83 or chapter 84 of title
10 5, United States Code, as amended by this title;
11 and

12 (B) to the extent performed before the ef-
13 fective date of that election, be treated in ac-
14 cordance with applicable provisions of sub-
15 chapter III of chapter 83 or chapter 84 of title
16 5, United States Code, as if the amendments
17 made by this title had then been in effect.

18 (2) CREDITABLE SERVICE.—All service per-
19 formed by an incumbent under an appointment
20 under section 515, 541, 543, or 546 of title 28,
21 United States Code, and while concurrently em-
22 ployed by the Department of Justice shall be cred-
23 ited in the same manner as if performed as an as-
24 sistant United States attorney.

1 (3) NO OTHER RETROACTIVE EFFECT.—Noth-
2 ing in this title (including the amendments made by
3 this title) shall affect any of the terms or conditions
4 of an individual’s employment (apart from those
5 governed by subchapter III of chapter 83 or chapter
6 84 of title 5, United States Code) with respect to
7 any period of service preceding the date on which
8 such individual’s election under subsection (c) is
9 made (or is deemed to have been made).

10 (e) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERV-
11 ICE.—

12 (1) IN GENERAL.—An individual who makes an
13 election under subsection (c)(1)(A) shall, with re-
14 spect to prior service performed by such individual,
15 deposit, with interest, to the Civil Service Retire-
16 ment and Disability Fund the difference between the
17 individual contributions that were actually made for
18 such service and the individual contributions that
19 would have been made for such service if the amend-
20 ments made by this title had then been in effect.

21 (2) EFFECT OF NOT CONTRIBUTING.—If the
22 deposit required under paragraph (1) is not paid, all
23 prior service of the incumbent shall remain fully
24 creditable as law enforcement officer service, but the
25 resulting annuity shall be reduced in a manner simi-

1 lar to that described in section 8334(d)(2)(B) of
2 title 5, United States Code.

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

12 (f) REGULATIONS.—The Office of Personnel Manage-
13 ment shall prescribe regulations necessary to carry out
14 this title, including provisions under which any interest
15 due on the amount described under subsection (e) shall
16 be determined.

17 **SEC. 203. AGENCY SHARE CONTRIBUTIONS.**

18 (a) IN GENERAL.—The cost for current agency share
19 contributions for personnel benefits incurred as a result
20 of this Act or the amendments made by this Act may be
21 paid from the Enhanced Financial Recovery Fund. If in
22 any fiscal year the Fund does not have a sufficient amount
23 on deposit to satisfy the cost for current agency share con-
24 tributions for personnel benefits incurred as a result of

1 this Act or the amendments made by this Act, the amount
2 of the insufficiency shall be due the next fiscal year.

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

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

1 **SEC. 204. EFFECTIVE DATE.**

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

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

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

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

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

25 (4) An incumbent with at least 20 years service
26 credited as an assistant United States attorney and

1 who is currently serving under an appointment
2 under section 541 or 546 of title 28, United States
3 Code, may choose to have the election take effect at
4 any time between the enactment of this Act and 24
5 months after the date of enactment of this Act.

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