

117TH CONGRESS
2D SESSION

S. 4444

To limit donations made pursuant to settlement agreements to which the United States is a party, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2022

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

A BILL

To limit donations made pursuant to settlement agreements to which the United States is a party, 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 “Safeguarding Awards
5 for Victims and Enforcement Settlements Act of 2022”.

6 **SEC. 2. LIMITATION ON DONATIONS MADE PURSUANT TO** 7 **SETTLEMENT AGREEMENTS TO WHICH THE** 8 **UNITED STATES IS A PARTY.**

9 (a) LIMITATION ON REQUIRED DONATIONS.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), an official or agent of the Government
3 may not enter into or enforce any settlement agree-
4 ment on behalf of the United States, directing or
5 providing for a payment or loan, in cash or in kind,
6 to any person or entity other than the United States
7 that is not a party to the dispute.

8 (2) EXCEPTIONS.—An official or agency of the
9 Government may enter into or enforce a settlement
10 agreement on behalf of the United States described
11 in paragraph (1) only if—

12 (A) the payment or loan provides restituti-
13 tion for or is otherwise intended to directly
14 remedy actual harm (including to the environ-
15 ment) directly caused by the party making the
16 payment or loan, and, to the extent any victim
17 thereof was an identifiable person, suffered by
18 the payee or lende, which shall not include an
19 agreement that requires a defendant in an envi-
20 ronmental case, in lieu of payment to the Fed-
21 eral Government, to expend funds to provide
22 goods or services to third parties for supple-
23 mental environmental projects;

24 (B) the payment or loan constitutes pay-
25 ment for services rendered in connection with

1 the case, including for settlement or compliance
2 monitoring or for divestiture trustee services, or
3 a payment pursuant to section 3663 of title 18,
4 United States Code;

5 (C) in cases of foreign official corruption,
6 a trusted third party is required to facilitate the
7 repatriation and use of funds to directly benefit
8 those harmed by the foreign corruption; or

9 (D) payment is expressly authorized by
10 statute or regulation, including restitution and
11 forfeiture.

12 (b) PROHIBITION ON CY-PRES REDISTRIBUTIONS IN
13 SETTLEMENTS.—Except as otherwise provided by law,
14 when the United States has entered into a settlement in-
15 volving a fund for payments to individual claimants,
16 amounts remaining after all claims on the settlement fund
17 have been satisfied shall be repaid proportionally to each
18 party who contributed to the settlement fund.

19 (c) EFFECTIVE DATE.—Subsections (a) and (b) shall
20 apply to any settlement agreement concluded on or after
21 the date of enactment of this Act.

22 (d) REPORTS ON SETTLEMENT AGREEMENTS.—

23 (1) IN GENERAL.—Not later than September
24 30 of the first fiscal year that begins after the date
25 of the enactment of this Act, and of each fiscal year

1 thereafter, the head of each Federal agency shall
 2 submit electronically to the Congressional Budget
 3 Office a report on each settlement agreement de-
 4 scribed in subsection (a)(1) entered into by that
 5 Federal agency during such fiscal year (other than
 6 a settlement agreement for a qui tam action or
 7 under section 586(a) of title 28, United States
 8 Code) that meets the requirements of an exception
 9 described in subparagraph (A) or (B) of subsection
 10 (a)(2), which shall include including the parties to
 11 each such settlement agreement, the source of the
 12 settlement funds, and where and how such funds
 13 were and will be distributed.

14 (2) PROHIBITION ON ADDITIONAL FUNDING.—
 15 No additional funds are authorized to be appro-
 16 priated to carry out this subsection.

17 (3) SUNSET.—This subsection shall cease to be
 18 effective on the date that is 7 years after the date
 19 of enactment of this Act.

20 (e) ANNUAL AUDIT REQUIREMENT.—

21 (1) IN GENERAL.—Not later than September
 22 30 of the first fiscal year that begins after the date
 23 of the enactment of this Act, and of each fiscal year
 24 thereafter, the Inspector General of each Federal
 25 agency shall submit a report on any settlement

1 agreement entered into by that Federal agency dur-
2 ing such fiscal year in violation of this section to—

3 (A) the Committee on the Judiciary, the
4 Committee on the Budget, and the Committee
5 on Appropriations of the Senate; and

6 (B) the Committee on the Judiciary, the
7 Committee on the Budget, and the Committee
8 on Appropriations of the House of Representa-
9 tives.

10 (2) PROHIBITION ON ADDITIONAL FUNDING.—

11 No additional funds are authorized to be appro-
12 priated to carry out this subsection.

13 (f) DEFINITIONS.—In this section:

14 (1) PAYMENT.—The term “payment” means
15 any transfer of money, cash, or other consideration,
16 including constructive transfer in lieu of money.

17 (2) SETTLEMENT AGREEMENT.—The term
18 “settlement agreement” means a settlement agree-
19 ment resolving a civil action or potential civil action,
20 participation in any pretrial diversion program, a
21 plea agreement, a deferred prosecution agreement,
22 or a non-prosecution agreement.

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