

112TH CONGRESS  
1ST SESSION

# S. 1712

To increase transparency in the payment of judgments and settlements by agencies, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 13, 2011

Mr. BROWN of Massachusetts (for himself, Mr. TESTER, Mr. BARRASSO, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To increase transparency in the payment of judgments and settlements by agencies, 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 “Transparency in Judg-  
5 ment Payments Act of 2011”.

6 **SEC. 2. DISCLOSURE OF PAYMENTS.**

7 Section 1304 of title 31, United States Code, is  
8 amended by adding at the end the following:

9 “(d)(1) Not later than 30 days after the payment of  
10 a final judgment, award, or compromise settlement under

1 this section, the Secretary of the Treasury shall publish  
2 electronically (including on a dedicated, publicly accessible  
3 Web site), in a manner consistent with applicable Federal  
4 privacy law—

5           “(A) the agency responsible for the payment;

6           “(B) a citation to the provision of law under  
7 which the claim was made;

8           “(C) the amount to be paid;

9           “(D) the amount of any interest to be paid;

10           “(E) the amount of any attorney fees to be  
11 paid; and

12           “(F) for any case filed in a court—

13                 “(i) the case number for the case that re-  
14 sulted in the judgment, award, or settlement;

15                 and

16                 “(ii) the court in which the case was filed.

17           “(2) The information published under paragraph (1)

18 shall contain separate sections for claims filed in court and

19 administrative claims.

20           “(3)(A) The Secretary of the Treasury shall submit

21 to the Committee on the Judiciary and the Committee on

22 Homeland Security and Governmental Affairs of the Sen-

23 ate and the Committee on the Judiciary and the Com-

24 mittee on Oversight and Government Reform of the House

25 of Representatives a quarterly report that contains—

1           “(i) any information published under paragraph  
2           (1) during the preceding quarter; and

3           “(ii) a confidential appendix that includes, for  
4           each case or claim described in clause (i), the iden-  
5           tity of the plaintiff, counsel for the plaintiff, and the  
6           defendant.

7           “(B) A report under subparagraph (A) shall be ex-  
8           empt from disclosure under section 552 of title 5. For pur-  
9           poses of section 552 of title 5, this paragraph shall be  
10          considered a statute described in subsection (b)(3)(B) of  
11          such section 552.”.

12       **SEC. 3. LITIGATION MANAGEMENT.**

13          (a) IN GENERAL.—Chapter 6 of title 5, United  
14          States Code, is amended by adding at the end the fol-  
15          lowing:

16       **“§ 613. Litigation management**

17          “(a) Each agency, in consultation with the Attorney  
18          General of the United States and consistent with applica-  
19          ble Federal privacy law, shall submit to the Committee  
20          on Homeland Security and Governmental Affairs of the  
21          Senate and the Committee on Oversight and Government  
22          Reform of the House of Representatives an annual report  
23          describing—

24               “(1) any civil action filed or pending against  
25               the agency or any employee of the agency; and

1           “(2) any settlements entered by or final judg-  
2           ments entered against the agency or any employee  
3           of the agency.

4           “(b) The report required under subsection (a) shall  
5 include—

6           “(1) a summary of—

7                   “(A) the number of civil actions filed,  
8                   pending, or settled;

9                   “(B) the number of civil actions for which  
10                   more than 36 months have passed since the  
11                   date the action was filed;

12                   “(C) the number of claims—

13                           “(i) made under a statute or regula-  
14                           tion; and

15                           “(ii) alleging a violation of a statute  
16                           or regulation;

17                   “(D) the number of judgments entered for  
18                   and against the agency;

19                   “(E) the number of settlements or consent  
20                   decrees involving the agency;

21                   “(F) the number of judgments entered  
22                   under seal;

23                   “(G) the number of settlements or consent  
24                   decrees involving a confidentiality agreement or  
25                   order;

1           “(H) the total amount of all judgments,  
2 settlements, and attorney fees paid by or on be-  
3 half of the agency; and

4           “(I) the total number of agency  
5 rulemakings or other actions commenced due to  
6 a judgment or settlement;

7           “(2) for each filed or pending civil action, a  
8 summary of the action that—

9           “(A) describes—

10           “(i) the nature of the action;

11           “(ii) the cause of action asserted, in-  
12 cluding specific statutory references;

13           “(iii) the nature and amount of relief  
14 requested;

15           “(iv) whether the plaintiff is a party  
16 to any other litigation against the agency;

17           “(v) whether a claim for attorney fees  
18 has been made, and if so, the statutory  
19 basis for the claim;

20           “(vi) the date the action was filed;  
21 and

22           “(vii) whether more than 36 months  
23 have passed since the date the action was  
24 filed; and

25           “(B) identifies—

1           “(i) the court, the presiding judge,  
2           and the case number; and

3           “(ii) the plaintiff and counsel for the  
4           plaintiff; and

5           “(3) for each settlement or final judgment, ex-  
6           cept a settlement or final judgment described in  
7           paragraph (4), a summary of the civil action that in-  
8           cludes—

9           “(A) the nature of the civil action;

10          “(B) the amount of the payment or other  
11          relief granted or agreed;

12          “(C) the amount of attorneys fees paid;  
13          and

14          “(D) the nature of any rulemaking or  
15          other agency action commenced due to the set-  
16          tlement or judgment; and

17          “(4) for each settlement or final judgment in-  
18          volving a judgment under seal or a confidentiality  
19          agreement or order—

20          “(A) the parties to the settlement or final  
21          judgment; and

22          “(B) each cause of action alleged in the  
23          complaint.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—

2 The table of sections for chapter 6 of title 5, United States

3 Code, is amended by adding at the end the following:

“613. Litigation management.”.

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