To require adequate information regarding the tax treatment of payments under settlement agreements entered into by Federal agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. WARRREN (for herself and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To require adequate information regarding the tax treatment of payments under settlement agreements entered into by Federal 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 “Truth in Settlements
5 Act of 2014”.

SEC. 2. INFORMATION REGARDING SETTLEMENT AGREEMENTS ENTERED INTO BY FEDERAL AGENCIES.

(a) REQUIREMENTS FOR SETTLEMENT AGREEMENTS.—

(1) IN GENERAL.—Chapter 3 of title 5, United States Code, is amended by adding at the end the following:

“§ 307. Information regarding settlement agreements

“(a) DEFINITIONS.—In this section—

“(1) the term ‘covered settlement agreement’ means a settlement agreement (including a consent decree) that—

“(A) is entered into by an Executive agency;

“(B) relates to an alleged violation of Federal civil or criminal law; and

“(C) requires the payment of a total of not less than $1,000,000 by one or more non-Federal persons;

“(2) the term ‘entity within the Federal Government’ includes an officer or employee of the Federal Government acting in an official capacity; and

“(3) the term ‘non-Federal person’ means a person that is not an entity within the Federal Government.
“(b) INFORMATION TO BE POSTED ONLINE.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—Subject to subparagraph (B), the head of each Executive agency shall make publicly available in a searchable format in a prominent location on the Web site of the Executive agency—

“(i) a list of each covered settlement agreement entered into by the Executive agency, which shall include, for each covered settlement agreement—

“(I) the date on which the parties entered into the covered settlement agreement;

“(II) the names of the parties that settled claims under the covered settlement agreement;

“(III) a description of the claims each party settled under the covered settlement agreement;

“(IV) the amount each party settling a claim under the covered settlement agreement is obligated to pay under the settlement agreement;
“(V) the total amount the settling parties are obligated to pay under the settlement agreement; and

“(VI) for each settling party, the amount the settling party is obligated to pay that has been designated as a civil penalty or fine, or otherwise specified as not tax deductible under the covered settlement agreement; and

“(ii) a copy of each covered settlement agreement entered into by the Executive agency.

“(B) CONFIDENTIALITY PROVISIONS.—The requirement to disclose information or a copy of a covered settlement agreement under subparagraph (A) shall apply to the extent that the information or copy (or portion thereof) is not subject to a confidentiality provision that prohibits disclosure of the information or copy (or portion thereof).

“(2) PERIOD.—The head of each Executive agency shall ensure that—

“(A) information regarding a covered settlement agreement is publicly available on the list described in paragraph (1)(A)(i) until at
least the date that is 5 years after the date of
the covered settlement agreement; and

“(B) a copy of a covered settlement agree-
ment made available under paragraph (1)(A)(ii)
is publicly available until—

“(i) at least the date that is 1 year
after the date of the covered settlement
agreement; or

“(ii) for a covered settlement agree-
ment under which a non-Federal person is
required to pay not less than $50,000,000,
at least the date that is 5 years after the
date of the covered settlement agreement.

“(c) PUBLIC STATEMENT.—If the head of an Execu-
tive agency determines that a confidentiality provision in
a covered settlement agreement, or the sealing of a covered
settlement agreement, is required to protect the public in-
terest of the United States, the head of the Executive
agency shall issue a public statement stating why such ac-
tion is required to protect the public interest of the United
States, which shall explain—

“(1) what interests confidentiality protects; and

“(2) why the interests protected by confiden-
tiality outweigh the public’s interest in knowing
about the conduct of the Federal Government and
the expenditure of Federal resources.

“(d) REQUIREMENTS FOR WRITTEN PUBLIC STATE-
MENTS.—Any written public statement issued by an Exec-
utive agency that refers to an amount to be paid by a
non-Federal person under a covered settlement agreement
shall—

“(1) specify which portion, if any, of the
amount to be paid under the covered settlement
agreement by a non-Federal person—

“(A) is a civil or criminal penalty or fine
to be paid for a violation of Federal law; or

“(B) is expressly specified under the cov-
ered settlement agreement as not deductible for
purposes of the Internal Revenue Code of 1986;
and

“(2) describe in detail any actions the non-Fed-
eral person shall take under the covered settlement
agreement—

“(A) in lieu of payment to the Federal
Government or a State or local government; or

“(B) in addition to such a payment.

“(e) REPORTING.—

“(1) IN GENERAL.—Not later than January 15
of each year, the head of an Executive agency that
entered into a covered settlement agreement during
the previous fiscal year shall submit to each com-
mittee of Congress with jurisdiction over the activi-
ties of the Executive agency a report indicating—

“(A) how many covered settlement agree-
ments the Executive agency entered into during
that fiscal year;

“(B) how many covered settlement agree-
ments the Executive agency entered into during
that fiscal year had any terms or conditions
that are required to be kept confidential; and

“(C) how many covered settlement agree-
ments the Executive agency entered into during
that fiscal year for which all terms and condi-
tions are required to be kept confidential.

“(2) Availability of reports.—The head of
an Executive agency that is required to submit a re-
port under paragraph (1) shall make the report pub-
lically available in a searchable format in a promi-
nent location on the Web site of the Executive agen-
cy.”.

(2) Technical and conforming amend-
ment.—The table of sections for chapter 3 of title
5, United States Code, is amended by adding at the
end the following:

“307. Information regarding settlement agreements.”.
(b) **Securities Reporting.**—

(1) **In General.**—Each issuer of securities that is required to file annual or other periodic reports with the Commission under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) shall describe in such a report any claim filed for a deduction under the Internal Revenue Code of 1986 during the reporting period that relates to a payment required under a covered settlement agreement.

(2) **Definitions.**—As used in this subsection—

(A) the term “Commission” means the Securities and Exchange Commission;

(B) the term “covered settlement agreement” has the meaning given that term in section 307 of title 5, United States Code, as added by subsection (a); and

(C) the terms “issuer” has the same meaning as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

(c) **Review of Confidentiality of Settlement Agreements.**—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report regarding
1 how Executive agencies (as defined under section 105 of
2 title 5, United States Code) determine whether the terms
3 of a settlement agreement or the existence of a settlement
4 agreement will be treated as confidential, which shall in-
5 clude recommendations, if any, for legislative or adminis-
6 trative action to increase the transparency of Government
7 settlements while continuing to protect the legitimate in-
8 terests that confidentiality provisions serve.