

Patching Up “America’s Deepest Pocket”: Reforming the Judgment Fund

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About the Author

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In May, the Trump Administration sparked bipartisan outrage when it announced the creation of a \$1.8 billion “Anti-Weaponization Fund” to pay people who claimed to have been singled out for politicized prosecution by the federal government.¹ According to the Justice Department’s plan, the fund’s resources would come from the Judgment Fund, the Treasury Department account that pays most of the judgments entered against the federal government.²

Faced with political blowback, the administration claims to have dropped its plan to create the Anti-Weaponization Fund. But the rare moment of publicity for the Judgment Fund is a useful opportunity to consider vulnerabilities in its structure that have concerned observers for years. Experts have long questioned the executive branch’s broad power to tap the Judgment Fund for settlement money, even in cases where no litigation has actually begun, a practice that poses significant risk of waste and corruption.

There are three kinds of reforms that could address this issue: ethics reforms; transparency reforms; and reforms giving Congress greater control of the fund. Most of these changes would require new laws, but there are some steps the executive branch can take on its own to at least mitigate the likelihood of abuse.

The Judgment Fund

The Judgment Fund is not well known to the public, but it plays an important role in the administration of justice. Until the middle of the 19th century, Congress reviewed almost every monetary claim against the federal government; if it granted a claim, it passed a private bill making the appropriation. As the number of petitions for claims swelled—they grew sixfold between the early 1790s and the 1830s—Congress was devoting an inordinate amount of time to this work, preventing legislators from attending to other important business and subjecting meritorious claimants to long delays.³ Over the next century, Congress shifted the power of adjudicating claims to the courts. That did not entirely ease Congress’s burden, however, because Congress retained the power to withhold payment when it disagreed with courts’ awards. Deciding whether to pay those judgments still took too much of the body’s time.

1. Meredith Lee Hill and Kelsey Brugger, “Bipartisan House Effort Aims to Kill ‘Anti-Weaponization’ Fund,” *Politico* (May 21, 2026).

2. Bureau of the Fiscal Service, U.S. Department of the Treasury, “Judgment Fund,” (last visited Oct. 23, 2026).

3. Andrew S. Coghlan, “Congress’s Authority to Restrict Monetary Civil Settlements,” *Congressional Research Service* (Dec. 22, 2025).

Congress's solution was the Judgment Fund, a permanent, indefinite appropriation it created in 1956. Originally limited to judgments of up to \$100,000, the fund's ceiling was removed in the 1977 legislation that gave the fund its modern form, which Professor Paul Figley has called "America's deepest pocket."⁴ The Judgment Fund proved to be a successful innovation. By effectively ending any congressional role in the resolution of claims against the federal government, the fund sped up the claims payment process and freed up valuable legislative resources. In this way, the Judgment Fund continues to serve the public interest.

The statute authorizing the Judgment Fund allows the fund to be used to satisfy not just judgments but "compromise settlements."⁵ That is where difficulties arise. The attorney general is responsible for most decisions about whether to settle cases involving the government, and the relevant statute empowers him or her to settle not only cases where litigation has begun, but also matters involving "imminent litigation."⁶ That language gives the executive branch wide and largely unfettered discretion in determining when to draw from the Judgment Fund.

The problem is not difficult to see. Simply by claiming that the government is facing "imminent" litigation, an administration can unilaterally decide to enter a settlement with an outside party and give it money from the Judgment Fund. In a careless administration, this free hand over the Judgment Fund could encourage profligacy; in an unscrupulous one, it could lead to political favoritism or even outright corruption. And even the everyday use of the Judgment Fund represents a considerable transfer of power from the legislative branch—which the Constitution entrusts with the power of the purse—to the executive.

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4. Paul F. Figley, "The Judgment Fund: America's Deepest Pocket & Its Susceptibility to Executive Branch Misuse," 18 *U. of Pennsylvania Journal of Constitutional Law* 145 (2015).

5. 31 U.S.C. § 1304(a).

6. 28 U.S.C. § 2414.

Reforms

There are several straightforward ways to make the Judgment Fund less susceptible to misuse and corruption, some of which are currently under consideration in Congress. The reforms fall into three categories: stronger ethical limitations, greater transparency, and an expanded role for Congress in overseeing the fund.

Ethics Reforms

Prohibitions on Payments to High-Level Officials.

The Department of Justice attempted to create the Anti-Weaponization Fund as part of a settlement of litigation brought by the sitting president, Donald Trump. But of course, the DOJ officials who approved the settlement serve in their offices at President Trump's pleasure. Ethics reforms can appropriately target this kind of self-dealing among well-placed officials.

Representative Jamie Raskin has introduced a bill that straightforwardly tackles this problem. It would bar payment of any “compromise settlement or award” to a list of parties that includes the president and vice president and their parents, spouses, children, or children-in-law; a presidentially owned entity; a Cabinet member; and any political appointee.⁷

There are several other proposed bills that would cover a narrower list of people. For instance, the “Ban Presidential Plunder of Taxpayer Funds Act,” introduced by Senator Elizabeth Warren, would exclude only the following individuals from eligibility for payments: the president, the vice president, the former president (if the current president had served as his vice president), any spouse or dependent child of those officials, and any trust controlled by them.⁸ Separately, the “[Drain the Slush Fund Act](#),” introduced in the Senate by Adam Schiff and in the House by Jason Crow, is even more narrowly targeted, covering only “payments that arise out of a lawsuit or claim filed by the president or vice president.”⁹

Because the risk of self-dealing is not limited to the president and vice president, the Raskin bill's broader approach would more comprehensively address concerns about the Judgment Fund's vulnerability to abuse. And it could be strengthened even further by including the family members of the named parties other than the president and vice president.

7. “[No Taxpayer-Funded Settlement Slush Funds Act of 2026](#),” H.R. 8914, 119th Congress (2026).

8. [S. 4299](#), 119th Congress (2026).

9. [S. 4644](#), 119th Congress (2026).

Enforcing the Prohibition on Payments.

To ensure compliance with these prohibitions, it is essential for any reform bill to contain a separate enforcement provision, especially one that is coupled with a statute of limitations that extends into a future administration. Although an administration that enters into a collusive settlement is unlikely to itself seek recoupment of the settlement amount, a subsequent administration may be willing to do so. The risk of future consequences, including disgorgement of any gains, will put some deterrent pressure on high-level officials tempted to use the Judgment Fund as a personal piggy bank.

And Congress can enhance the deterrent by making the listed officials liable not just for the amount of improperly obtained funds, but also for damages. Given the clarity of the prohibition, double or treble damages seems appropriate. Senator Warren's bill includes a provision along these lines, authorizing civil penalties of up to \$1 million or the amount of the improper payment (whichever is greater) and imprisonment of up to five years.

Congress could also consider a *qui tam* provision empowering private parties to sue on the United States' behalf to challenge settlements that violate these clear ethics rules, and to obtain a portion of any recovery.

Bars on Lawsuits and Claims by High-Level Officials.

The prohibition of payments could be combined with a bar on the specified officials bringing any lawsuit or filing any claim against the United States during their tenure in office. Such a bar would prevent an incumbent administration from settling or offering only a token defense against a collusive claim.

The Warren bill includes a series of provisions that address this possibility. One would bar the filing of any administrative claim against the United States by any covered person. Another would bar any court from awarding any damages other than actual or compensatory damages in any civil action brought by a covered person—and it would

bar even the award of actual or compensatory damages unless (a) the person agreed to the appointment of an independent counsel to represent the agency's interests, (b) the government appointed the independent counsel, and (c) the agency cooperated with the independent counsel throughout the litigation.

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For litigation maintained by any formerly covered person, the Warren bill would require that “an expert, career employee who can only be removed for good cause” must be appointed “to lead any review and adjudication of the claim during any administrative or settlement process, and that no official appointed by the covered person could participate “in any capacity” in reviewing or defending the claim.

While well-intentioned, the Warren bill’s provisions are perhaps too complex. For current covered officials, it would make the most sense simply to ban the bringing or maintaining of lawsuits against the United States. For former covered officials, the risks of permitting suits seem sufficiently attenuated that adding extra procedural steps seems like overkill.

For fairness reasons, any law prohibiting high-level officials and their families from bringing claims should be accompanied by a provision tolling the statute of limitations on any claim until the officials leave office. Senator Warren’s bill includes such a provision.

Administrative Reforms.

Even without legislation, the Executive Branch could adopt a policy against entering into a settlement with the officials targeted by these bills. It could also adopt a policy of moving for continuances of any litigation against the United States brought or maintained by those officials during their terms of office. These reforms would be sensible, but they would also be easily circumvented or reversed by a subsequent administration. And any given administration is unlikely to tie its own hands when later administrations will not be bound by that decision. There is thus no real substitute for a legislative fix.

Transparency Reforms

Federal law currently requires the Department of the Treasury to post the following information on a public website no later than 30 days after a payment for a judgment or settlement under the Judgment Fund is tendered:

- (1) The name of the specific agency or entity whose actions gave rise to the claim or judgment.
- (2) The name of the plaintiff or claimant.
- (3) The name of counsel for the plaintiff or claimant.
- (4) The amount paid representing principal liability, and any amounts paid representing any ancillary liability, including attorney fees, costs, and interest.
- (5) A brief description of the facts that gave rise to the claim.
- (6) The name of the agency that submitted the claim.

Disclosure is not required where it “is otherwise prohibited by law or a court order.”¹⁰

10. [31 U.S.C. § 1304\(d\)](#).

Representative Raskin’s bill proposes expanding this reporting obligation. For any payment greater than \$100,000, his bill would require the Treasury Department to report to the Chairs and Ranking Members of the House and Senate Judiciary Committees within 30 days of payment. That report would be required to contain essentially the same information that Treasury must put on the public website. Crucially, however, Rep. Raskin’s bill would not include the exemption for disclosures “otherwise prohibited by law or court order”; instead, it would apply “notwithstanding any other provision of law.”

The expanded reporting requirement in Rep. Raskin’s proposed legislation would helpfully shine a light on potential abuses of the Judgment Fund. The Treasury can and should adopt the same reporting policy on its own, but legislation is the best way to require unwilling administrations to share information with Congress. That legislation should also include a private right of action to enforce the current disclosure requirements, as well as a right of action for committee chairs and ranking members in Congress to enforce the new reporting requirement it would add.

Congressional Control Reforms

One of the aspects of the Anti-Weaponization Fund that occasioned such great controversy was its sheer size: \$1.776 billion. A coalition of state attorneys general has sued the Trump Administration for unlawfully using the Judgment Fund to pay an offshore wind developer; at stake in that litigation is a ‘mere’ \$765 million. The Obama Administration’s \$760 million *Keepseagle* settlement also drew significant criticism, but it differed from the Anti-Weaponization Fund in key ways, most notably in that it was the result of litigation between adverse parties and was subject to court approval and supervision. Where such large amounts of public money are at stake, it may be appropriate for Congress, which holds the constitutional power of the purse, to reserve for itself the decision whether to enter into settlements entailing the spending of so much money.

There is a history here. As noted above, Congress originally limited use of the Judgment Fund to payments of \$100,000 or less, meaning that it continued to make individual determinations about whether to pay larger judgments. Although the \$100,000 cap was far too low, it would not be unreasonable (or too burdensome) for Congress to regain approval power over especially large payments—say, those in the hundreds of millions or more.

Statutory Reforms.

Congress could achieve that result in a few ways. It could simply reimpose a hard cap on the Judgment Fund, thereby requiring congressional approval of payments above the specified amount. To ensure that these new responsibilities do not recreate the workload and delay problems that the Judgment Fund was designed to solve, the cap could apply only to non-adjudicated settlements, since a court would have determined the plaintiff's entitlement to—and the amount of—a litigated award.

Congress could also pair the cap with fast-track authority along the lines of the procedures applied to presidential rescission proposals under the Impoundment Control Act. Such authority provides for a speedy up-or-down vote in each chamber, with limitations on debate, providing another protection against delayed payments.

Even with fast-track authority, a cap presents considerable downsides, however. Most administrations will try to limit the number of occasions in which they have to ask for a vote from Congress. The cap would thus discourage the executive branch from seeking settlements above the cap, even in cases where they are entirely appropriate and just.

To address this problem, Congress could impose a so-called report-and-wait requirement on proposed Executive Branch settlements above a certain threshold. An administration could conclude settlements without the passage of new legislation, but it would have to first report the proposed settlement to Congress and then wait a certain number of days before concluding it. That period would give Members of Congress time to voice objections to the proposed settlement, as well as to seek to pass legislation (that would be subject to a presidential veto) barring it.

The report-and-wait requirement could be combined with a fast-track procedure for a bill prohibiting the proposed settlement, one modeled on the procedure for bills overturning regulations in the Congressional Review Act. But such a bill would still be subject to veto. As with regulations subject to the Congressional Review Act, Congress would not be required to do anything to allow the settlement to go into effect. It would have to act only if legislators opposed the settlement.

The Raskin bill includes a report-and-wait requirement (though without a CRA-style fast-track reversal option). That requirement would apply to any settlement or award of more than \$250,000, or any settlement “made on the basis of imminent litigation or suit against the United States.” It would mandate that the Treasury Secretary report any such payment to the House and Senate Judiciary Committees and then wait 120 days before making the payment. This sort of report-and-wait provision seems like an appropriate way both to promote transparency and to restore a greater measure of congressional control. But the proposed \$250,000 cap seems low, threatening to once

again overwhelm Congress with relatively insignificant settlements. And the waiting period seems long, threatening undue delays of relief to those who deserve and need it. A shorter waiting period, combined with a higher cap (one that perhaps aggregates all claims that involve challenges to the same government action), would address these problems.

Administrative Reforms.

It would be possible for an administration unilaterally to incorporate key protections of congressional control in its own policies. The administration could simply refuse to enter into settlements above a certain (high) amount without first obtaining congressional approval through the appropriations process. It could adopt its own report-and-wait requirements for large or politically sensitive settlements as well. These might be appropriate policies to write into DOJ's Justice Manual or the Treasury Department's Judgment Fund regulations.

Here again, though, statutory reform would be more effective and durable. And administrative reforms might diminish the urgency of necessary statutory reforms. A new administration thus should prioritize legislative changes, with unilateral administrative action only being considered as a last resort. But logistical difficulties with mandating certain settlements go to Congress might argue for a more flexible administrative response in this context.

Conclusion

The Judgment Fund serves an important public purpose. It saves valuable time for both claimants and Congress.

But, as commentators have long noted, it is also vulnerable to use as the executive branch's personal piggy bank, a vulnerability recently given vivid illustration by the current administration's controversial Anti-Weaponization Fund.

Through a series of relatively simple legislative fixes, Congress could protect the Judgment Fund from the most egregious forms of collusion and self-dealing, increase public visibility into how the fund is being used, and reclaim a supervisory role over exceptionally large judgments—a role entirely consistent with its constitutional powers as the nation's paymaster. The outrage over the Anti-Weaponization Fund suggests this is an opportune moment for reform. Congress should seize the chance to keep a closer eye on the public's money.

