

**AMENDMENT TO H.R. 2406, AS REPORTED  
OFFERED BY MR. WITTMAN OF VIRGINIA**

Page 53, line 18, insert “, subject to appropriation,”  
after “expended”.

Page 63, strike lines 1 through 8.

Strike “of 2015” each place it appears.

At the end of the bill, add the following:

1       **TITLE XVII—OPEN BOOK ON**  
2       **EQUAL ACCESS TO JUSTICE**

3       **SEC. 1701. SHORT TITLE.**

4           This title may be cited as the “Open Book on Equal  
5 Access to Justice Act”.

6       **SEC. 1702. MODIFICATION OF EQUAL ACCESS TO JUSTICE**  
7                               **PROVISIONS.**

8           (a) AGENCY PROCEEDINGS.—Section 504 of title 5,  
9 United States Code, is amended—

10                   (1) in subsection (c)(1), by striking “, United  
11 States Code”;

12                   (2) by redesignating subsection (f) as sub-  
13 section (i); and

14                   (3) by striking subsection (e) and inserting the  
15 following:

1           “(e)(1) The Chairman of the Administrative Con-  
2           ference of the United States, after consultation with the  
3           Chief Counsel for Advocacy of the Small Business Admin-  
4           istration, shall report to the Congress, not later than  
5           March 31 of each year through the 6th calendar year be-  
6           ginning after the initial report under this subsection is  
7           submitted, on the amount of fees and other expenses  
8           awarded during the preceding fiscal year pursuant to this  
9           section. The report shall describe the number, nature, and  
10          amount of the awards, the claims involved in the con-  
11          troversy, and any other relevant information that may aid  
12          the Congress in evaluating the scope and impact of such  
13          awards. The report shall be made available to the public  
14          online.

15          “(2)(A) The report required by paragraph (1) shall  
16          account for all payments of fees and other expenses  
17          awarded under this section that are made pursuant to a  
18          settlement agreement, regardless of whether the settle-  
19          ment agreement is sealed or otherwise subject to non-  
20          disclosure provisions.

21          “(B) The disclosure of fees and other expenses re-  
22          quired under subparagraph (A) does not affect any other  
23          information that is subject to nondisclosure provisions in  
24          the settlement agreement.

1           “(f) The Chairman of the Administrative Conference  
2 shall create and maintain, during the period beginning on  
3 the date the initial report under subsection (e) is sub-  
4 mitted and ending one year after the date on which the  
5 final report under that subsection is submitted, online a  
6 searchable database containing the following information  
7 with respect to each award of fees and other expenses  
8 under this section:

9           “(1) The case name and number of the adver-  
10 sary adjudication, if available.

11           “(2) The name of the agency involved in the  
12 adversary adjudication.

13           “(3) A description of the claims in the adver-  
14 sary adjudication.

15           “(4) The name of each party to whom the  
16 award was made, as such party is identified in the  
17 order or other agency document making the award.

18           “(5) The amount of the award.

19           “(6) The basis for the finding that the position  
20 of the agency concerned was not substantially justi-  
21 fied.

22           “(g) The online searchable database described in sub-  
23 section (f) may not reveal any information the disclosure  
24 of which is prohibited by law or court order.

1       “(h) The head of each agency shall provide to the  
2 Chairman of the Administrative Conference in a timely  
3 manner all information requested by the Chairman to  
4 comply with the requirements of subsections (e), (f), and  
5 (g).”.

6       (b) COURT CASES.—Section 2412(d) of title 28,  
7 United States Code, is amended by adding at the end the  
8 following:

9       “(5)(A) The Chairman of the Administrative Con-  
10 ference of the United States shall submit to the Congress,  
11 not later than March 31 of each year through the 6th cal-  
12 endar year beginning after the initial report under this  
13 paragraph is submitted, a report on the amount of fees  
14 and other expenses awarded during the preceding fiscal  
15 year pursuant to this subsection. The report shall describe  
16 the number, nature, and amount of the awards, the claims  
17 involved in each controversy, and any other relevant infor-  
18 mation that may aid the Congress in evaluating the scope  
19 and impact of such awards. The report shall be made  
20 available to the public online.

21       “(B)(i) The report required by subparagraph (A)  
22 shall account for all payments of fees and other expenses  
23 awarded under this subsection that are made pursuant to  
24 a settlement agreement, regardless of whether the settle-

1 ment agreement is sealed or otherwise subject to non-  
2 disclosure provisions.

3 “(ii) The disclosure of fees and other expenses re-  
4 quired under clause (i) does not affect any other informa-  
5 tion that is subject to nondisclosure provisions in the set-  
6 tlement agreement.

7 “(C) The Chairman of the Administrative Conference  
8 shall include and clearly identify in the annual report  
9 under subparagraph (A), for each case in which an award  
10 of fees and other expenses is included in the report—

11 “(i) any amounts paid from section 1304 of  
12 title 31 for a judgment in the case;

13 “(ii) the amount of the award of fees and other  
14 expenses; and

15 “(iii) the statute under which the plaintiff filed  
16 suit.

17 “(6) The Chairman of the Administrative Conference  
18 shall create and maintain, during the period beginning on  
19 the date the initial report under paragraph (5) is sub-  
20 mitted and ending one year after the date on which the  
21 final report under that paragraph is submitted, online a  
22 searchable database containing the following information  
23 with respect to each award of fees and other expenses  
24 under this subsection:

25 “(A) The case name and number.

1           “(B) The name of the agency involved in the  
2 case.

3           “(C) The name of each party to whom the  
4 award was made, as such party is identified in the  
5 order or other court document making the award.

6           “(D) A description of the claims in the case.

7           “(E) The amount of the award.

8           “(F) The basis for the finding that the position  
9 of the agency concerned was not substantially justi-  
10 fied.

11          “(7) The online searchable database described in  
12 paragraph (6) may not reveal any information the dislo-  
13 sure of which is prohibited by law or court order.

14          “(8) The head of each agency (including the Attorney  
15 General of the United States) shall provide to the Chair-  
16 man of the Administrative Conference of the United  
17 States in a timely manner all information requested by  
18 the Chairman to comply with the requirements of para-  
19 graphs (5), (6), and (7).”.

20          (c) CLERICAL AMENDMENTS.—Section 2412 of title  
21 28, United States Code, is amended—

22               (1) in subsection (d)(3), by striking “United  
23 States Code,”; and

24               (2) in subsection (e)—

1 (A) by striking “of section 2412 of title  
2 28, United States Code,” and inserting “of this  
3 section”; and

4 (B) by striking “of such title” and insert-  
5 ing “of this title”.

6 (d) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by  
8 subsections (a) and (b) shall first apply with respect  
9 to awards of fees and other expenses that are made  
10 on or after the date of the enactment of this Act.

11 (2) INITIAL REPORTS.—The first reports re-  
12 quired by section 504(e) of title 5, United States  
13 Code, and section 2412(d)(5) of title 28, United  
14 States Code, shall be submitted not later than  
15 March 31 of the calendar year following the first  
16 calendar year in which a fiscal year begins after the  
17 date of the enactment of this Act.

18 (3) ONLINE DATABASES.—The online databases  
19 required by section 504(f) of title 5, United States  
20 Code, and section 2412(d)(6) of title 28, United  
21 States Code, shall be established as soon as prac-  
22 ticable after the date of the enactment of this Act,  
23 but in no case later than the date on which the first  
24 reports under section 504(e) of title 5, United States  
25 Code, and section 2412(d)(5) of title 28, United

- 1 States Code, are required to be submitted under
- 2 paragraph (2) of this subsection.

