

Union Calendar No. 193

115TH CONGRESS
1ST SESSION

H. R. 2195

[Report No. 115–268]

To amend title 5, United States Code, to provide for access of the Special Counsel to certain information.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2017

Mr. BLUM (for himself, Mr. CHAFFETZ, Mr. CUMMINGS, Miss RICE of New York, Mr. COFFMAN, and Ms. SPEIER) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

JULY 28, 2017

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on April 27, 2017]

A BILL

To amend title 5, United States Code, to provide for access
of the Special Counsel to certain information.

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 “OSC Access Act”.*

5 **SEC. 2. ADEQUATE ACCESS OF SPECIAL COUNSEL TO IN-**
 6 **FORMATION.**

7 *Section 1212(b) of title 5, United States Code, is*
 8 *amended by adding at the end the following:*

9 “(5)(A) *Except as provided in subparagraph (B), the*
 10 *Special Counsel, in carrying out this subchapter, is author-*
 11 *ized to—*

12 “(i) *have timely access to all records, data, re-*
 13 *ports, audits, reviews, documents, papers, rec-*
 14 *ommendations, or other material available to the ap-*
 15 *plicable agency that relate to an investigation, review,*
 16 *or inquiry conducted under—*

17 “(I) *section 1213, 1214, 1215, or 1216 of*
 18 *this title; or*

19 “(II) *section 4324(a) of title 38;*

20 “(ii) *request from any agency the information or*
 21 *assistance that may be necessary for the Special*
 22 *Counsel to carry out the duties and responsibilities of*
 23 *the Special Counsel under this subchapter; and*

24 “(iii) *require, during an investigation, review,*
 25 *or inquiry of an agency, the agency to provide to the*

1 *Special Counsel any record or other information that*
2 *relates to an investigation, review, or inquiry con-*
3 *ducted under—*

4 “(I) section 1213, 1214, 1215, or 1216 of
5 *this title; or*

6 “(II) section 4324(a) of title 38.

7 “(B)(i) *The authorization of the Special Counsel under*
8 *subparagraph (A) shall not apply with respect to any entity*
9 *listed in section 2302(a)(2)(C)(ii) or (iii) unless the Special*
10 *Counsel is investigating, or otherwise carrying out activi-*
11 *ties relating to the enforcement of, an action under sub-*
12 *chapter III of chapter 73.*

13 “(ii) *The Attorney General or an Inspector General*
14 *may withhold from the Special Counsel material described*
15 *in subparagraph (A) if—*

16 “(I) *disclosing the material could reasonably be*
17 *expected to interfere with a criminal investigation or*
18 *prosecution that is ongoing as of the date on which*
19 *the Special Counsel submits a request for the mate-*
20 *rial, or the material may not be disclosed pursuant*
21 *to court order or has been filed under seal pursuant*
22 *to section 3730 of title 31; and*

23 “(II) *the Attorney General or the Inspector Gen-*
24 *eral, as applicable, submits to the Special Counsel a*
25 *written report that describes—*

1 “(aa) the material being withheld; and

2 “(bb) the reason that the material is being
3 withheld.

4 “(C)(i) A claim of common law privilege by an agency,
5 or an officer or employee of an agency, shall not prevent
6 the Special Counsel from obtaining any material described
7 in subparagraph (A) with respect to the agency.

8 “(ii) The submission of material described in subpara-
9 graph (A) by an agency to the Special Counsel may not
10 be deemed to waive any assertion of privilege by the agency
11 against a non-Federal entity or against an individual in
12 any other proceeding.

13 “(iii) With respect to any record or other information
14 made available to the Special Counsel by an agency under
15 subparagraph (A), the Special Counsel may only disclose
16 the record or information for a purpose that is in further-
17 ance of any authority provided to the Special Counsel in
18 this subchapter.

19 “(6) The Special Counsel shall submit to the Com-
20 mittee on Homeland Security and Governmental Affairs of
21 the Senate, the Committee on Oversight and Government
22 Reform of the House of Representatives, and each committee
23 of Congress with jurisdiction over the applicable agency a
24 report regarding any case of contumacy or failure to com-

- 1 *ply with a request submitted by the Special Counsel under*
- 2 *paragraph (5)(A).”.*

Amend the title so as to read: “A bill to amend title 5, United States Code, to provide for access of the Special Counsel to certain information, and for other purposes.”.

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